

SANITARY
REGULATION
OF
BAKEHOUSES

Bakehouse Farm



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BY

Lady Shirley Mundy


Date *5th September 1929*

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Child, young person, ...
Bakehouse.

KNIGHT & CO., 90 FLEET STREET, E.C.

^b SFI



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THE

SANITARY REGULATION

OF

BAKEHOUSES

BY THE AUTHOR OF

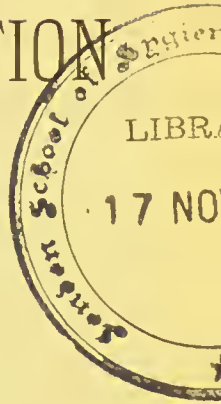
"THE LOCAL LOANS OF ENGLAND AND WALES."



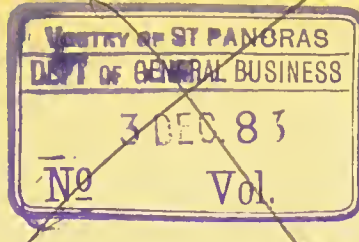
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1884.



17024



P R E F A C E .

THE Factory and Workshop Act of the last Session having taken the duty of enforcing the sanitary regulation of retail bakehouses from the Inspectors of Factories, and having in other respects amended the law relating to these establishments, it is manifestly desirable that the members and officers of the local authorities, who, for the future, will have to carry out so much of the new Act, and of the Factory and Workshop Act, 1878, as relates to this subject, should make themselves acquainted with the nature of the obligation, which is thus imposed on them, and the powers which they possess in connexion with it. Without the aid of an explanatory manual, this will not be altogether an easy task, in consequence of the statutory provisions relating to bakehouses being hidden away in a mass of legislation with which no one, who is not himself practically interested in factories or workshops can be expected to be familiar. The main object of the present work has been to assist local authorities in this respect, by presenting to them the law relating to bakehouses, disentangled as far as possible from the law relating to other factories and workshops.

At the same time, an attempt has been made by means of copious quotations from the reports of the Royal Commission on Factories and Workshops, Her Majesty's Chief Inspector of Factories, and several distinguished Metropolitan Medical Officers of Health, to show the necessity from a sanitary point of view of the systematic inspection of retail bakehouses, and the advantages which may be expected to result from the action of the present Government in transferring the duty of such inspection from the central to the local authorities. It is hoped that the work may be especially useful to Medical Officers of Health, on whom some very novel powers and duties have been assigned by the new statute, *e.g.* in relation to the taking of legal proceedings against offenders, and the giving of notices to the Inspectors of Factories of the employment of women and children in bakehouses.

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CHAPTER I.

Past Legislation as to Bakehouses.

THE past history of the legislation affecting the regulation of bakehouses in this country, is somewhat curious. Prior to 1863, there were no special enactments on the subject.

No special
legislation
before 1863.

In that year, the Bakehouse Regulation Act, 1863 (26 & 27 Vict., c. 40), was passed. This Act prohibited the employment in bakehouses of persons under eighteen years of age, between the hours of nine o'clock at night, and five o'clock in the morning. It required that every bakehouse should be kept in a cleanly state, and be provided with proper means for effectual ventilation, and be free from effluvia arising from any drain, privy, or other nuisance. It also contained certain additional regulations with respect to bakehouses situate in cities, towns, or places containing, according to the last census, a population of more than 5,000 persons. By these regulations—(1.) The inside walls and ceiling or top of the bakehouse, and the passages and staircase leading thereto were required to be either painted with oil or to be lime-washed, or partly to be painted and partly lime-washed. Where painted with oil, there were to be three coats of paint, and the painting was to be renewed once at least in every seven years, and to be washed with hot water and soap once at least in every six months. Where lime-washed, the lime-washing was to be renewed once at least in every six

Bakehouse
Regulation
Act, 1863.

months. (2.) Places on the same level with the bakehouse and forming part of the same building, were prohibited from being used as sleeping places, unless they were effectually separated from the bakehouse by a partition extending from the floor to the ceiling; and unless there were an external glazed window of at least nine superficial feet in area, of which at least four and a half superficial feet were made to open for ventilation.

The Act was made to apply to England, Scotland, and Ireland, and adequate penalties were imposed by it, recoverable summarily in the event of any breach of its provisions.

Enforceable
by the local
authorities.

The duty of enforcing the Act was imposed on the local authorities, who, in England, were the same bodies as those entrusted with carrying the Nuisances Removal Acts into operation.

Provisions of
the Act divisi-
ble into two
classes, accord-
ing as they
relate to the
regulation of
the employ-
ment of per-
sons under 18
years of age,
or the sanitary
regulation of
bakehouses.

It will be observed that the provisions of this Act naturally divide themselves into two classes, according as their object is to regulate the employment of persons under eighteen years of age, or to provide for the observance of sanitary requirements in the bakehouse.

Judged by the light of subsequent events, there are several omissions in the Act, as regards each of these classes of provisions; but the most serious mistake, which was made by its framers, was that they omitted to keep the two classes of provisions distinct, and that they imposed the duty of enforcing them on one and the same authority.

Regulation of
the employ-
ment of young
persons should
have been en-
forced by the
Inspectors of
Factories.

The regulation of the employment of young persons in bakehouses was a duty altogether outside the scope of the ordinary work of a sanitary authority, and within the scope of the ordinary duties of the Factory Inspectors. There was apparently no greater reason for requiring a sanitary authority to supervise the employment of these persons in bakehouses, than in other factories or

workshops. Nor were there any sufficient grounds for excepting bakehouses in this respect from the operation of the general law relating to factories and workshops.

On the other hand, the sanitary regulation of bakehouses, such as those to which the Act was evidently intended primarily to apply, was a duty which it was eminently right to impose on the same local authorities, as were employed in the sanitary regulation of premises, other than bakehouses.

Sanitary regulation of ordinary bakehouses rightly entrusted to the local authority.

Another defect in the Act was that no distinction was made by it between wholesale and retail bakehouses. The definition of bakehouse contained in it was, "any place in which are baked bread, confectionery, or biscuits, from the baking or selling of which a profit is derived." This definition included not only the innumerable small bakehouses which exist in every town, and which are the only places popularly known as bakehouses, but also the large wholesale establishments for biscuit-baking, such as those of Messrs. Huntley and Palmer, at Reading, which are comparatively few in number, and the regulation of which, for all purposes, might have probably been left to the Factory Inspectors without any detriment to the public health.

No distinction in the Act between wholesale and retail bakehouses.

The result of not keeping the two objects of the Act distinct was that, as time went on, the amendments which were made in the general law relating to the employment of women and children in other factories and workshops were not made applicable to bakehouses, the only statutory enactment on this subject being the one above referred to, by which persons under eighteen years of age were prohibited from being employed in bakehouses between the hours of nine o'clock at night and five o'clock in the morning. This state of things continued

Result of not keeping the two objects of the Act distinct.

until the Report of the Royal Commission on Factories and Workshops in 1876, to which reference is made below.

Public Health Act, 1872.

In the meanwhile, the Public Health Act, 1872, having for the first time constituted urban and rural sanitary authorities throughout the country outside of the Metropolis, the duties of the local authorities under the Bakehouse Regulation Act, 1863, were transferred outside of the Metropolis to the new authorities thus constituted.

Public Health Act, 1875.

In 1875, the Public Health Act, 1872, and the majority of the Sanitary Acts, were consolidated by the Public Health Act, 1875. The Bakehouse Regulation Act was not included in this consolidation; but the duty of carrying it into effect continued to belong to the urban and rural sanitary authorities, in addition to the duties attaching to these authorities under the new Act.

Local Authorities for enforcing the Act in the Metropolis.

In the Metropolis, the local authorities whose duty it was to enforce the Bakehouse Regulation Act were, in the City of London, the Commissioners of Sewers, and in the remainder of the Metropolis, the Metropolitan Vestries and District Boards.

Report of the Royal Commission on Factories and Workshops in 1876.

In 1875, a Royal Commission having been appointed to inquire into the working of the Factory and Workshop Acts, with a view to their consolidation and amendment, the anomalous state of the law relating to bakehouses naturally came under their consideration, in connexion with the proposal to extend the Factory law to various trades and handicrafts, which by accident or otherwise had been excepted from its operation. On this subject the Commissioners say (see pages xviii. and xix. of their Report):—

“The most conspicuous instance of a handicraft “trade excepted is that of baking. Bakehouses “have never as yet been put under the Factory and

“ Workshop Acts ; they have, however, been
“ specially regulated by the Bakehouse Regulation
“ Act of 1863. By that Act, which was passed at
“ a time when public attention had been called to
“ the unhealthy conditions under which the baking
“ of bread was carried on, the same limits were
“ prescribed for the hours of labour of young
“ persons, namely, 5 a.m. and 9 p.m., as were after-
“ wards adopted in the Workshops Regulation Act ;
“ and provisions were added for securing cleanli-
“ ness and sanitary precautions in the bakehouses.
“ A ‘bakehouse’ was, moreover, defined to mean
“ ‘any place in which are baked bread, biscuits, or
“ confectionery, from the baking or selling of which
“ a profit is derived ;’ thus including, with the
“ peculiar night-trade of bread-baking, the ordinary
“ day-trade of biscuit-baking and confectionery.
“ The practical result of this Act was to exclude
“ young persons from the bread-baking trade, where
“ the work is necessarily done by night ; and the
“ temporary alarm having subsided, the trade was
“ not included in the Factory Acts Extension Act
“ of 1864, which dealt with certain specially un-
“ healthy occupations, and was expressly excluded,
“ both from the Factory Acts Extension Act and
“ from the Workshops Regulation Act of 1867, as
“ being already regulated by the special Act. It
“ was apparently overlooked, that not merely bread-
“ baking, in which there practically remained
“ nothing which urgently required regulation, but
“ also biscuit-baking and confectionery, trades in
“ which, in some places, steam-power is used, and
“ hundreds of women, young persons and children,
“ are employed, were thus excepted from the
“ general system, which was then in course of ex-
“ tension to all trades alike. In the Bakehouse Act
“ there are no educational provisions, and indeed
“ ‘children’ are in no way mentioned in the Act.

“The anomaly was again sanctioned and aggravated by the Factory and Workshop Act of 1871, when, the workshops having been transferred to the supervision of the Inspectors of Factories, upon the express ground of the failure of the local authorities to supervise them, it was overlooked that there had been similar failure to perform the duties imposed on them in reference to bakehouses. At the present day it is only here and there that any active steps have been taken by the local authorities to carry out the provisions of the Bakehouse Act ; in general, indeed, nothing has been done by them except in ordinary execution of their sanitary functions. Their officers have sometimes visited them, and circulars have been issued stating the requirements embodied in the Act. Meantime, the Inspectors of Factories have in some cases established their authority to the utmost limits the law would allow, that is to say, over all parts of a biscuit factory in which biscuits are not actually baked ; over every room, in fact, in which there is no oven. In some districts, however, this has not been attempted, and the resulting confusion may easily be conceived. Some biscuit factories have been brought wholly under the law, some partly, while some are entirely free from control, according to the degree of resistance which has been made by the occupier and the general discretion of the inspector. Mr Sub-Inspector Cooke Taylor writes : ‘ In my district are two large biscuit factories (Messrs. Carr’s at Carlisle, and Messrs. Powell’s at Preston), and several smaller ones. In these the extraordinary system prevails of children, refused by the certifying surgeon to work in the lighter processes of the manufacture for ten or ten and a half hours a day, being sent down into the bakehouse, where they can be employed, appa-

“rently (26 & 27 Vict., c. 40, s. 3) for *sixteen*
“hours at a stretch! This arrangement, I am
“informed, is facetiously described as “putting
“them into the hot-house to mature.”’ And
“Mr. Wm. Palmer states, in reference to some
“similar complaints of the large establishment of
“Messrs. Huntley and Palmer at Reading: ‘With
“regard to the complaints of our long hours, ours
“is by far the largest factory in the town, and we
“are not under the Factory Act. Many small
“factories in the town have been under the Factory
“Act, and you can easily imagine that there is a
“sort of grievance on the part of those small
“factories, that one large factory is not under the
“same rules and regulations as they are.’ We are
“clearly of opinion that the baking trade, whether
“of bread or biscuits, and including confectionery,
“should be placed under the general law. We
“shall have occasion hereafter to point out the
“relaxation of the law which it may be proper to
“concede. We by no means recommend that the
“local authorities should be relieved of their general
“duties in respect of the sanitary supervision of
“bakehouses; which, on the contrary, we trust
“will in future be more effectually administered.
“We do not recommend the repeal of the Bake-
“house Regulation Act, because it appears not to
“have been incorporated, but only referred to, in
“the Consolidated Public Health Act of last year,
“with which it is of course desirable not to interfere.”

With regard to so much of the above-quoted pas- Allegation as
sage as relates to the alleged general failure on the to failure of the
part of the local authorities to carry out the pro- local authori-
visions of the Bakehouse Regulation Act, it is ties in enforc-
only fair to say that an allegation of this kind ing the Bake-
is very easy to make, and very difficult to refute, house Regula-
and that an examination of the very voluminous tion Act.

evidence printed in the Report does not, in the

opinion of the present writer, afford ground for any serious indictment against any local authority in this respect. No details appear to be given of a single instance in which any local authority had neglected to see to the sanitary regulation of the bakehouses in its district. The statements on this point on which the Commissioners seem to have relied, for the most part related to so much of the Act, as regulated the employment of young persons in wholesale bakeries, and were made by the Inspectors of Factories, on what seems to have been, as a general rule, hearsay evidence. It must not be forgotten that at this time these Inspectors were prevented by the Factory Acts from inspecting bakehouses, to which the Bakehouse Regulation Act applied, that is to say, the bakehouses which it was the duty of the local authorities to regulate ; and it is not clear from the Report that any Factory Inspector had ever entered such a bakehouse, so as to be in a position to speak from personal experience as to the alleged defaults of the local authorities in this respect. One of the witnesses having stated to the Commissioners that he did not believe that the local authority exercised any supervision over the bakehouses in his district, it transpired on the following day, that the local authority in question employed five inspectors to inspect and report upon bakehouses. It is of course probable that some local authorities were more active than others in the inspection of bakehouses ; but too much stress may easily be laid on the assumption of the Commissioners that prior to 1876 the local authorities entrusted with the execution of the Bakehouse Regulation Act, 1863, had neglected their duties under that Act, so far as they related to the supervision of bakehouses for sanitary purposes.

Transfer of in-

Be this as it may, it is quite clear from the report

of the Commissioners that they were not of opinion that the sanitary regulation of bakehouses should be transferred from the local authorities to the Factory Inspectors. On this point their recommendation is explicit. They say, "We by no means recommend that the local authorities should be relieved of their general duties in respect of the sanitary supervision of bakehouses, which on the contrary, we trust will in future be more effectually administered. We do not recommend the repeal of the Bakehouse Regulation Act." How in the face of this recommendation, it came to pass that two years afterwards, when the Factory and Workshop Act, 1878, was passed by Parliament, which Act was generally understood to be based on the recommendations of the Royal Commission, the duty of enforcing the sanitary regulation of bakehouses was transferred from the local authorities to the Inspectors of Factories, and the Bakehouse Regulation Act was repealed, is one of those legislative mysteries, the solution of which would probably not reflect sufficient credit on the wisdom of Parliament to render it desirable to expend any great amount of labour on the investigation.

specion of
bakehouses
from local au-
thorities to the
Inspectors of
Factories
made contrary
to the recom-
mendation of
the Royal
Commission.

That the Inspectors of Factories were not responsible for the transfer may perhaps be inferred from the fact that Mr. Alexander Redgrave, H.M. Chief Inspector of Factories and Workshops, in his evidence before the Commissioners, stated that he would leave retail bakehouses as they were, under the local authority, and would merely extend the provisions of the Factory and Workshop Act to wholesale bakehouses, as it was in these establishments only that children under 18 years of age were employed. (See page 18 of Vol. II. of the Report of the Royal Commission.)

Opinion of the
Chief Inspec-
tor of Factories
against the
transfer as re-
gards retail
bakehouses.

The duty of inspecting bakehouses having been transferred from the local authorities to the Factory

Result of the
transfer.

Inspectors, the question arises whether it was thenceforth more efficiently performed. On this point the only evidence that is available is contained in the Annual Reports made to the Secretary of State by the Chief Inspector of Factories and Workshops, and to local authorities by their Medical Officers of Health. From these latter reports it is not altogether surprising to find that as some of the Factory Inspectors had formerly complained that the inspection of bakehouses had been neglected by the local authorities prior to the transfer, so after the transfer had been made, similar complaints were made by the local officials as to the lack of frequent and systematic inspection by the Inspectors of Factories.

Report of the
Chief Inspector
of Factories
for 1882.

On this question, in his Report to the Secretary of State for the year ended the 31st of October, 1882, Mr. Redgrave says: "Upon the coming into operation of the Factory and Workshop Act, 1878, on the 1st of January, 1879, *there appeared to be much more pressing work to be undertaken under the entirely new provisions, which, under that Act, applied to both factories and workshops, than the immediate inspection of bakehouses, (1) which in the Metropolis especially had been subject to the frequent inspection of the officers of the local authorities.*

"Not many bakehouses, therefore, were visited in 1879; but since then considerable progress has been made in the inspection of them. In my last report I stated that Her Majesty's Inspector Lakeman, whose district extends from Farringdon Street to the Cambridge Road, Bethnal Green,

¹ It will be observed that although the only sufficient ground for the transfer of the duty of inspection from the local authorities could have been the inefficient manner in which that duty had been performed, nevertheless, after the transfer had been effected, the efficient manner in which the inspection had been conducted by the local authorities was made one of the excuses for deferring the inspection by the Factory Inspectors.

“ had, with his colleague, made 1,417 visits between
“ January, 1880, and October, 1881, and from the
“ latter date to the 31st October, 1882, they have
“ made about 1,000 visits.

“ Her Majesty’s Inspector Gould, whose district
“ extends westward from Farringdon Street, has
“ made, with his colleague, 459 visits to bakehouses
“ in the present year. South of the Thames, Her
“ Majesty’s Inspector J. A. Redgrave, with his
“ colleague, has made 1,309 inspections from the
“ 1st of January, 1879, to the 31st October, 1882.

“ Of course these do not nearly exhaust the neces-
“ sary work of inspection, but looking at the means
“ at our disposal, these six gentlemen have done no
“ insignificant amount of work, which up to January,
“ 1879, appears to have occupied the attention of 78
“ officers of the local authorities.”

On this, the latest authoritative statement, as to
the inspection of bakehouses since 1878, the con-
sideration naturally suggests itself, whether it is
possible that the work of inspecting the enormous
number of retail bakehouses, which exist through-
out the country, could be as well or as promptly
discharged by a central authority with a small staff
of officials, however competent and energetic they
may be, as it could be by the numerous local autho-
rities, with a huge aggregate staff of officials, each
of them well acquainted with the local circum-
stances of the several districts in which the estab-
lishments to be inspected are situate.

Whether the
inspection can
be better done
by the central
or the local au-
thority.

If the work could be better done by the central
than by the local authority, then the whole tendency
of modern legislation in connexion with the abate-
ment of other nuisances than unsanitary bakehouses,
has been in the wrong direction ; and the duty of
removing these nuisances has been wrongly en-
trusted to the local, rather than to the central,
authority.

It is no reflection on the Factory Inspectors to say that it is impossible, from the nature of the case, that they can have done the work as well as competent local authorities could have done it ; but it would be a very serious reflection on any local authority to contend that work of this kind could be better done by a Factory Inspector than by the officials of the local authority.

Opinion of
Medical Of-
ficers of Health
on this ques-
tion.

On the question whether as a matter of fact the work of inspection has been as well done by the Factory Inspectors as it was formerly by the local officials, the opinion of the Medical Officers of Health in the various districts, in which there are a large number of bakehouses, is certainly entitled to some weight ; and as these officers in the Metropolis were, by what appears to have been a fortunate oversight in the Factory and Workshop Act, 1878,¹ enabled to continue to inspect bakehouses, under the provisions of the Nuisances Removal Acts, although at first they very naturally left this work to be done by the Factory Inspectors, whose primary duty it was to perform it, the evidence given in the following extracts from their annual reports is of special interest, inasmuch as they seem to have possessed exceptional advantages in this respect, as compared with Medical Officers of Health in the provinces.

Report of Dr.
Murphy,
Medical Of-
ficer of Health
for St. Pancras.

On this point, Dr. Murphy, the Honorary Secretary to the Epidemiological Society, and the Society of Medical Officers of Health, and the Medical Officer of Health for the parish of St. Pancras, in his Report for the year 1881, says :—

“The vestry will recollect that in my Report for the year 1878, I expressed regret that the inspection of bakehouses as such had passed out of the hands of the vestry. The vestry still have the

¹ See the first note to the sixth Schedule of that Act in the Appendix.

“right to inspect for the purpose of enforcing the
 “cleanliness of the house when it is dirty, but they
 “have ceased to have power to compel the periodi-
 “cal cleansing of the bakehouses, except for the
 “abatement of nuisance, and to insist that the bake-
 “house shall be ventilated to the extent mentioned
 “in the late Bakehouses Regulation Act, as well as
 “other matters over which they formerly had control.
 “As the result of an inquiry, which I have recently
 “made, I find that since the passing of the Factory
 “and Workshop Act in 1878, *very much more than*
 “*half the bakehouses in St. Pancras have never been*
 “*inspected by those upon whom the duty now devolves.*
 “On March 17th, 1881, I brought this subject
 “before the Society of Medical Officers of Health,
 “and from the observations made by the Medical
 “Officers to other parishes on that occasion, I
 “gather *that St. Pancras is not exceptional in this*
 “*respect.*”

“The vestry will readily understand that under
 “these circumstances the bakehouses, instead of
 “continuing to improve, will become more than
 “ever unfit for the purposes for which they are
 “intended, and I cannot but express my regret that
 “a matter so intimately related to the public health
 “as the condition of premises in which the chief
 “article of food is manufactured, should have passed
 “out of the hands of those who are responsible for
 “the health of those who consume it.”

In his Report for the year 1882, Dr. Bate, the
 Medical Officer of Health for the parish of Bethnal
 Green, writes: “On my appointment as Medical
 “Officer of Health for this parish in 1876, I in-
 “spected the whole of the bakehouses in the district,
 “and visited them again in 1877 and 1878; but
 “upon the 1st of January, 1879, the Factory and
 “Workshop Act, 1878, came into operation. By
 “this Act, the Bakehouse Regulation Act, 1863,

Report of Dr.
 Bate, Medical
 Officer of
 Health for
 Bethnal
 Green.

“ was repealed, and the supervision of the bakehouses
“ taken away from the vestries, and transferred to
“ Her Majesty’s Inspectors of Factories, who, how-
“ ever, are directed by the 4th section of the new
“ Act to call the attention of the sanitary officers to
“ any premises, in such a state as to constitute a
“ nuisance injurious to health.

“ Our right to inspect bakehouses was thus taken
“ away; and as we received no notification of any
“ nuisances existing upon such premises from the
“ Factory Inspectors, we ceased to visit until our
“ attention was again called to them by an extract
“ from the Report of the Chief Inspector, which ap-
“ peared in the public newspapers, and of which the
“ following is a copy”:—

Dr. Bate here sets out the extract from the Report of Mr. Lakeman, which was published in the Report of the Chief Inspector of Factories for the year 1881, and which is set out below in Chapter III.

“ Though no particular district is specified in this
“ report, still, I felt it my duty to visit the whole of
“ the bakehouses in the parish as soon as possible in
“ order to ascertain their condition, and if possible,
“ to remedy any nuisance existing.

“ I may here state that in no single instance was
“ I refused admission to a bakehouse; *but I also*
“ *found that a number had never been inspected since*
“ *we gave up our periodical visits, and that the con-*
“ *dition of some of these was very neglected indeed.*

“ The bakehouses in the main roads seem to have
“ been pretty regularly visited, *though at long inter-*
“ *vals; but many of those in bye streets had been*
“ *overlooked*, for some of them are provision shops
“ as well as bakers, and others are pastry-cooks, etc.
“ and I have little doubt, that, even knowing the
“ district as well as I do, I may have missed several
“ in my tour of inspection.

“ Looking at the results of my inspection all

“round, I am decidedly of opinion that the condition of the bakehouses is worse than when I last visited them in 1878; the pastry-cooks’ and bun shops are, as a rule, in a very much worse condition than the bakers proper, but they all require a great deal of looking after, *and should be visited quarterly*; it is much to be regretted that their supervision has been taken out of the hands of the sanitary officers.

“I think it quite right and proper that these places should be visited by the Factory Inspectors, who should control the business arrangements, hours of labour, employment of children, etc., but sanitary inspections should be left to sanitary officers.”

The next Medical Officer of Health, whose opinion on this matter will be quoted, is Dr. Tidy, the Medical Officer of Health for the parish of St. Mary, Islington, Fellow of the Institute of Chemistry, Professor of Chemistry and of Medical Jurisprudence and Public Health at the London Hospital, Master of Surgery, and late Deputy Medical Officer of Health and Food Analyst for the City of London. In his Report for the year 1881, Dr. Tidy says: “In my Report for the year 1879, I wrote as follows, and I reproduce it here owing to what has since transpired with reference to the condition of some of the bakehouses of the Metropolis:—

Report of Dr. Tidy, Medical Officer of Health for St. Mary, Islington.

“‘The visits to bakehouses were not so numerous as in former years. The Bakehouse Regulation Act, 1863, having been repealed by the Consolidated Factory and Workshop Act, 1878, which came into operation on the 1st of January, 1879, and under which the bakehouses will now be inspected by Her Majesty’s Inspectors of Factories, who, by the 4th section, are directed to give notice of any nuisance remediable under the

“Nuisances Removal Acts, to the sanitary authority.

“‘Whether this new legislation will tend to the improvement of the condition of the bakehouses, or whether they will gradually fall into the state of neglect they were in prior to the passing of the Act of 1863, time alone will show ; but there can be no doubt as to the beneficial results of the supervision constantly exercised since the end of 1866-67 by the vestry as the local authority, *the reality of which is attested by the 8,279 visits made by your Inspectors to the bakehouses of the parish*, as well as by the summonses issued in the worst cases from time to time, when it has been necessary as an example, to enforce the regulations of the Act, although it must be acknowledged that the bakers of Islington, as a rule, have not been unwilling to meet the requirements of the Sanitary Committee under the Act now repealed.’

“The foregoing comments have a renewed interest at the present time owing to the extract from the Report of Her Majesty’s Chief Inspector of Factories and Workshops upon London Bakehouses, which recently went the round of the newspapers, and in which the condition of the bakehouses is alleged to be most unsatisfactory.

“Her Majesty’s Inspector having stated in writing that the report in question refers only to the East End of London, I do not propose to do more than mention it here, more especially as your Vestry have received no notice of any sanitary defects from Her Majesty’s Inspector as provided in the 4th section of the Factory and Workshop Act, 1878.

“I have, nevertheless, felt it my duty to direct an inspection to be made of the bakehouses in Islington, with a view to ascertain their present condition under the new *régime* as contrasted with

“ their condition in the beginning of the year 1879,
 “ when they were first taken under the supervision
 “ of Her Majesty’s Inspectors, and also, for the
 “ purpose of having any defects now existing
 “ remedied as speedily as possible.

“ This inspection has just been carried out under
 “ the powers given by the Nuisances Removal Acts,
 “ which provide for an order of admission to be
 “ obtained from the Magistrate in case of refusal,
 “ the inference being, in such instances, that
 “ nuisances exist which it is desired to conceal.

“ In March, 1879, when the bakehouses were last
 “ previously inspected by your sanitary officers, it
 “ was found that of the 232 there were 6 empty, and
 “ that of the 226 which were being used, 133 required
 “ to be lime-whited.

“ *In one instance only was any accumulation of*
 “ *refuse found under the troughs, and there were no*
 “ *other sanitary defects observed at that time.* Of the
 “ 232 bakehouses, 129 were underground, there
 “ being nothing in the Building Acts to prevent
 “ the construction or adaptation of underground
 “ premises for such a purpose. The following
 “ abstract will show the result of the inspection just
 “ made :—

“ Since the inspection of March, 1879, 12 of the
 “ old bakehouses have been abolished, and 23 new
 “ ones have been added to the number, the nett
 “ increase being 11. The total number at the present
 “ time is, therefore, 243, of which 144 are under-
 “ ground. Of the 23 new bakehouses 14 are under-
 “ ground and 9 are not. Of the 243 bakehouses 6
 “ are empty, and of the 237 being used 101 require
 “ to be lime-whited. *In 45 instances accumulations*
 “ *of refuse were found under the troughs, and 25*
 “ *inlets to drains were untrapped. In 8 bakehouses*
 “ *the paving was defective. In 2 there were stack*
 “ *pipes open at the top and connected with the drains*

"at the bottom. One of these is new, and, in the other case, the stack pipe had been altered. In a single instance a drain pipe was found open for the reception of the water overflowing from the water receptacle. Three of the more recently constructed bakehouses have waterclosets in them, while 5 old ones are similarly circumstanced.

"I must say that from this abstract it would seem that my anticipation of three years since has been realized, for there are certainly signs of much neglect, which nothing but constant supervision will remedy. It is true that a smaller number, 101 against 133, require lime-whiting, but that has always been the case at Midsummer as compared with the Spring, when a much larger number was always found to require cleansing after the winter months.

"But 45 accumulations of refuse under the troughs against 1 in 1879, and 25 untrapped drains against none, are matters of serious import, and prove conclusively that the average three visits a year of your sanitary officers were far more effectual than the one possible visit of Her Majesty's Inspector in every two years and six months, that being the time it would take him, on his own calculation, to make one visit to each of the 1890 bakehouses included in the district referred to in the Report of Her Majesty's Chief Inspector of Factories and Work-shops.

"The change was evidently a step in the wrong direction, for what was wanted then, and what is still wanted, was not centralization, but registration, which should have been left in the hands of the Local Sanitary Authority, for this it is which would alone absolutely prevent the use of unfit places as bakehouses, as it would also prevent the improper construction of places intended for this purpose."

The only other Report of a Metropolitan Medical Officer of Health, which will be quoted in reference to this matter, is that of Dr. Dudfield, the Medical Officer of Health for the Parish of St. Mary Abbots, Kensington, for the year 1881. Referring to Mr. Lakeman's Report, to which allusion has already been made, Dr. Dudfield says :—" It is stated in the " Report, which gives no details whatever, that " about three-fourths of the total number of bakeries " in the Inspector's District have been inspected, " presumably, once only since January, 1880, *i.e.*, in " twenty-two months, so that it would take two " years to complete a single inspection of all the " bakehouses. The Act has been in operation two " and three quarter years." Dr. Dudfield then gives an analysis of Mr. Lakeman's Report, concluding with the following quotation from it :—" Therefore, " I do not think that for humanity's sake, we should " regret that the inspection of bakehouses has been " added to our duties." On this Report and its concluding paragraph Dr. Dudfield comments as follows :—

Report of
Dr. Dudfield,
Medical
Officer of
Health for St.
Mary Abbots,
Kensington.

" Truly a formidable indictment against the " policy of recent legislation, and one which may " well cause the *public* to regret that the inspection " of bakehouses has been added to the duties of " Factory Inspectors, who appear to have no " sufficient time to attend to it, and who, so far as " one can judge from this, the only report on bake- " houses in the Report of the Chief Inspector, neither " enforce the sanitary provisions of the Act, nor " exercise the power they possess of calling in the " Sanitary Authority to their assistance when they " happen to inspect a bakehouse and find a nuisance " therein.

" It would be a libel upon Sanitary Inspectors to " suppose, as the Factory Inspector would seem to " imply, that they had left bakehouses at the end of

“ 1878 in the abominable condition above-described
 “ as existing in 1880-1881, and, for all we know to
 “ the contrary, still existing : and we can only sur-
 “ mise that bakehouses have fallen into such a con-
 “ dition because Factory Inspectors have neglected
 “ their duty. The report, however, will have had
 “ one good effect, inasmuch as it has led to a general
 “ inspection of bakehouses by Sanitary Inspectors,
 “ who, whatever their legal status, will not be likely
 “ to allow such nuisances as the Factory Inspector
 “ describes to continue, without at least making a
 “ vigorous effort to remove the scandal.

“ It has been contended, indeed, that sanitary
 “ officials have no right of entry into a bakehouse
 “ now that the Bakehouse Regulation Act, 1863, has
 “ been repealed, and it is not long since I saw this
 “ stated in a trade journal : a baker, in the enjoyment
 “ doubtless of freedom from official inspection,
 “ having written to a Factory Inspector to enquire
 “ whether a Sanitary Inspector had any right to
 “ make an inspection of his bakehouse, and obtained
 “ a reply in the negative.

“ In some parishes, I believe, all inspection of
 “ bakehouses is at an end, *i.e.* Official Inspectors do
 “ not inspect, and Sanitary Inspectors have ceased
 “ to inspect. In this parish, however, the inspection
 “ of bakehouses has been systematically continued
 “ with little objection on the part of the bakers, and
 “ many notices for cleansing, &c., have been duly
 “ complied with, when, as is seldom the case, a
 “ verbal request for white-washing, &c., had not
 “ been immediately respected. In only one
 “ instance have we been compelled to resort to the
 “ magistrates—and in that one successfully—for
 “ assistance.”

Inference to
 be drawn from
 these Reports.

If credit is to be placed in the above reports
 (and it will be observed that they are all made by
 experienced Medical Officers of Health of high

professional standing and qualifications), it seems impossible to doubt that in the Metropolis the result of the transfer of jurisdiction effected by the Factory and Workshop Act, 1878, was that retail bakehouses were less frequently and systematically inspected than they were when the duty of supervising their sanitary condition belonged to the local authorities. What the effect of the Act of 1878 was in the provinces may, perhaps, be inferred from what is known as to its operation in the Metropolis, and from the fact that no detailed information is given in the Annual Reports of the Chief Inspector of Factories as to the extent to which retail bakehouses had been visited by the Inspectors in other parts of the country. It transpires incidentally, in the Report for the year 1882, that the Inspectors for Birmingham report favourably of the condition of bakehouses in that town, more than 100 of which had been visited by one Inspector, who had also visited 50 in the neighbouring country districts; and the Chief Inspector of Factories also mentions that he has reason to believe that the bakehouses in Glasgow were well looked after prior to the passing of the Act of 1878. It is further stated in the same report that, "in many towns, although there has been a fair amount of lime-washing done, the keeping of the bakehouses in a cleanly state, as regards the removal of dirt and refuse, and the mass of waste flour and scraps of dough until they had become offensive, appears to have been over-looked." It is difficult to infer from these statements that the thousands upon thousands of retail bakehouses which exist in England, Scotland and Ireland, have been systematically visited by the Factory Inspectors: and, indeed, such a task, from the nature of the case, even if properly performed in the towns of England alone, would, probably, have exhausted the energy of a far larger staff of central

officials than could possibly have been provided for the purpose.

Re-transfer of
sanitary regu-
lation of retail
bakehouses to
local
authorities.

Enough has, probably, been said to convince the reader that it is not to be regretted that the present Government have seen fit to re-transfer the duty of seeing to the sanitary regulation of retail bakehouses from the Factory Inspectors to the local authorities. This has been done by section 17 of the Factory and Workshop Act, 1883 (46 & 47 Vict., c. 53), which received the Royal Assent on the 25th of August last. The powers which local authorities possess as regards these establishments, by the combined operation of that Act and the Factory and Workshop Act, 1878, will form the subject of the next chapter.

CHAPTER II.

The Present Law as to Retail Bakehouses.

ONE result of the course which has been pursued by the Legislature in the matter of bakehouses, as described in the last chapter, has been, that the statutory enactments affecting the sanitary regulation of retail bakehouses, the administration of which has now been committed to the local authorities, and which are comparatively few in number, are rendered more difficult of access than they would otherwise have been by reason of their being contained in the two lengthy Acts of Parliament, comprising together upwards of 120 sections and 6 voluminous schedules, in which the whole of the factory law of the country has been consolidated. The Acts in question are the Factory and Workshop Act, 1878 (41 Vict., c. 16), and the Factory and Workshop Act, 1883 (46 & 47 Vict., c. 53). In order to facilitate reference to such of the provisions of these Acts as relate to retail bakehouses and their supervision, it has been considered the most convenient course to detach them from the statutes, in which they are contained, and to set them out at length in the Appendix, with such explanatory notes as have appeared to be necessary, giving in this chapter a general description of their contents and of the more important questions which arise in connexion with them.

The Factory and Workshop Acts, 1878 and 1883 (41 Vict., c. 16, and 46 & 47 Vict., c. 53).

Local
authorities
for the
purposes of
these Acts.

Bakehouses
over which
their juris-
diction will
extend.

The Acts apply to England and Wales, Scotland and Ireland, and the local authorities, who under them exercise jurisdiction with respect to retail bakehouses, are, in the City of London, the Commissioners of Sewers; in the remainder of the Metropolis, the Metropolitan Vestries and District Boards; in the Urban and Rural Sanitary Districts of England and Wales, the Urban and Rural Sanitary Authorities; in Scotland, the "Local Authorities" within the meaning of the Public Health (Scotland) Act, 1867; and in Ireland, in Urban and Rural Sanitary Districts, the Urban and Rural Sanitary Authorities within the meaning of the Public Health (Ireland) Act, 1878. The expression "retail bakehouse," is defined in section 18 of the new Act as meaning "any bakehouse or place, the bread, "biscuits, or confectionery baked in which are not "sold wholesale, but by retail in some shop or place "occupied together with such bakehouse." This definition separates with sufficient distinctness the class of establishments, the sanitary supervision of which will remain with the Factory Inspectors, from those which will now have to be inspected and regulated by the local authorities. In other respects it is practically a reproduction of the old definition of bakehouse which was contained in section 2 of the Bakehouse Regulation Act, 1863, and which was "any place in which are baked "bread, biscuits or confectionery, from the baking "or selling of which a profit is derived." This definition does not very clearly determine the extent of the premises which are to be considered as included in the expression "bakehouse" (as to which see the note on the Sixth Schedule to the Factory and Workshop Act, 1878, in the Appendix); but, so far as the present writer is aware, no practical difficulty arose under the Bakehouse Regulation Act, 1863, in consequence

of its defects in this respect, and, having regard to the general scope of the existing statutory provisions with respect to retail bakehouses, the Courts would, probably, be inclined to put a liberal construction on the definition. At the same time, it would have been more satisfactory if the definition could have been more precisely worded, *e.g.* in a similar manner to the definitions of "factory" and "workshop" in section 93 of the Act of 1878, so as to have, in express terms, included premises, rooms or places, in which or within the close or curtilage of which any manual labour is exercised by way of trade, or for purposes of gain, in connexion with the making or baking of bread, biscuits, or confectionery. In the event of any question arising as to the extent of the jurisdiction exerciseable by local authorities over bakehouses it would, perhaps, be well to contend that, as "bakehouses" were included among the factories and workshops to which the Act applied, the definitions of "factory" and "workshop" are still applicable to them, and that the definition of "retail bakehouse," in section 18 of the Act of 1883, must be read in the light of the definitions of "factory" and "workshop" in section 93 of the Act of 1878, it being expressly provided by section 18 of the Act of 1883 that that Act is to be construed as one with the Act of 1878.

The provisions of the Act of 1878, which are enforceable by local authorities as regards retail bakehouses, are contained in sections 3, 33, 34, and 35 of that Act (see section 17 (1) of the Act of 1883). Of these sections, the two former relate to all factories and workshops within the meaning of the Act, wherever they may be situate, and the two latter to such bakehouses only as are "situate in any city, town,¹ or place,¹ containing, according to

Provisions of the Factory and Workshop Act, 1878, which are enforceable by local authorities as regards these bakehouses.

¹ As to the meaning of these words, see notes (1 and 2) on section 2 of the Act of 1878 in the Appendix.

the last published census for the time being, a population of more than five thousand persons."

Section 3.

As has already been pointed out, bakehouses are included among the factories and workshops to which the Act of 1878 applies, and sections 3 and 33 of the Act apply therefore to them. Section 3 provides that a factory or workshop shall be kept in a cleanly state, and free from effluvia arising from any drain, privy, or other nuisance; that it shall not be so overcrowded while work is carried on therein as to be injurious to the health of the persons employed therein; and that it shall be ventilated in such a manner as to render harmless, as far as is practicable, all the gases, vapours, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health. By section

Section 33.

33 it is enacted that "for the purpose of securing the observance of the requirements of this Act as to cleanliness in every factory and workshop, all the inside walls of the rooms of a factory or workshop, and all the ceilings or tops of such rooms (whether such walls, ceilings or tops be plastered or not), and all the passages and staircases of a factory or workshop, if they have not been painted with oil or varnished once at least within seven years, shall be lime-washed once at least within every fourteen months; and, if they have been so painted or varnished, shall be washed with hot water and soap once at least within every fourteen months, to date from the period when last washed."

How enforce-
able.

Any factory or workshop, in which there is a contravention of either of these sections, will be deemed not to be kept in conformity with the Act, and the occupier will be liable to a fine not exceeding ten pounds, which will be recoverable on summary conviction before a Court of Summary Jurisdiction. (See sections 81 and 89 of the Act.)

In addition to, or in lieu of, inflicting this fine, the Court may, if it sees fit, order means to be adopted by the occupier, for the purpose of bringing his factory or workshop into conformity with the Act; and may limit a time within which the order is to be carried out. This time may, if necessary, be subsequently enlarged; but if the order is not complied with after the expiration of the time allowed by the Court, the occupier will be liable to a penalty not exceeding one pound for every day that such non-compliance continues. (Section 81.)

Of the above provisions it will be observed that those contained in section 3 correspond with enactments which were formerly to be found in the second paragraph of section 4 of the Bakehouse Regulation Act, 1863, and section 91 (6) of the Public Health Act, 1875.

Sections 34 and 35 of the Act of 1878, which, as already stated, only apply to bakehouses situate in any city, town, or place containing according to the last published census for the time being a population of more than four thousand persons, are practically the same as the first paragraph of section 4, and section 5 of the Bakehouse Regulation Act. The former of them, requires all the inside walls of the rooms of every bakehouse to which it applies, and all the ceilings or tops of such rooms (whether such walls, ceilings or tops be plastered or not), and all the passages or staircases of such bakehouse, to be either painted with oil, or varnished or lime-washed, or partly painted or varnished and partly lime-washed; where painted with oil or varnished there must be three coats of paint or varnish, and the paint or varnish must be renewed once at least in every seven years, and must be washed with hot water and soap once in every six months: where lime-washed the lime-wash-

Origin of
sections 34.
and 35.

Section 34..

ing must be renewed once, at least, in every six months.

Difference
between
sections 33
and 34.

These requirements are the same as those contained in section 33, with the exception that the washing of the painted or varnished interiors with hot water and soap, and the lime-washing of the interiors which have not been painted or varnished, are required to be done once in every six months instead of once in every fourteen months, and that, when the interiors are painted or varnished, three coats of paint or varnish are necessary. The section is enforceable in the same manner as section 33.

Section 35.

Section 35 of the Act of 1878 provides that where a bakehouse is situate in any city, town, or place containing according to the last published census for the time being a population of more than five thousand persons, a place on the same level with the bakehouse, and forming part of the same building, shall not be used as a sleeping place, unless it is constructed as follows ; that is to say,—unless it is effectually separated from the bakehouse by a partition extending from the floor to the ceiling, and unless there be an external glazed window of at least nine superficial feet in area, of which at least four and a half superficial feet are made to open for ventilation.

Any person who lets or occupies, or continues to let, or knowingly suffers to be occupied, any place contrary to this section, will be liable to a fine not exceeding, for the first offence, twenty shillings, and for every subsequent offence, five pounds.

No apparent
reason why
operation of
this section
should have
been confined
to urban
districts.

It is not easy to see why the operation of this section has been confined, both in the Bakehouse Regulation Act, from which it is taken, and in this Act, to the cities, towns, and places mentioned in it ; for its requirements are such that if, as is no doubt the case, they are necessary in towns, it is, probably, equally desirable that they should be

enforced in rural districts. Presumably they are intended alike for the protection of the sleeper and of the bread consumer. It is, of course, possible that the rustic, who during sleep inhales and pollutes the atmosphere of the bakehouse, may be stronger in constitution than his city brother who is prohibited from indulging in such a habit, and that the same remark may apply to the persons who eat the bread which has been in the bakehouse during the time that he has slept there, as compared with those who eat the bread which has come from an urban bakehouse. But it is quite possible that the contrary may be the case, and the right of an inhabitant of this country to be protected against insanitary conditions is not usually supposed to be dependent on the strength or weakness of his constitution. It is, therefore, satisfactory to find that no similar invidious distinctions are drawn in the recent Act of 1883, as between urban and rural bakehouses.

The sections of that Act, which are enforceable by local authorities, are two in number. The former of them (section 15) relates exclusively to rooms and places which were not let or occupied as bakehouses before the 1st of June, 1883. It provides that it shall not be lawful to let or to suffer to be occupied as a bakehouse, or to occupy as a bakehouse, any such room or place, unless the following regulations are complied with :—

(I.) No watercloset, earthcloset, privy, or ashpit shall be within, or communicate directly with, the bakehouse.

(II.) Any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern for supplying water to a watercloset.

(III.) No drain or pipe for carrying off fœcal or sewage matter shall have an opening within the bakehouse.

Any person who lets or suffers to be occupied,

Provisions of
the Factory and Workshop
Act, 1883,
which are
enforceable
by local
authorities.
Section 15.

or who occupies, any room or place as a bakehouse in contravention of this section will be liable, on summary conviction, to a fine not exceeding forty shillings, and to a further fine not exceeding five shillings for every day during which any room or place is so occupied after a conviction under this section.

Section 16.

The other section of this Act which is enforceable by local authorities, relates to all bakehouses, whatever may be the date of their construction or first occupation. It provides that where a Court of Summary Jurisdiction is satisfied on the prosecution (as regards wholesale bakehouses of a Factory Inspector and) as regards retail bakehouses of the local authority, that any room or place used as a bakehouse (whether the same was or was not so used before the passing of this Act) is in such a state as to be, on sanitary grounds, unfit for use or occupation as a bakehouse, the occupier of the bakehouse shall be liable, on summary conviction, to a fine not exceeding forty shillings, and on a second or any subsequent conviction, not exceeding five pounds.

The Court, in addition to, or instead of, inflicting such fine, may order means to be adopted by the occupier within a time named in the order for the purpose of removing the ground of complaint, and may upon application enlarge the time so named ; but if after the time so originally named or enlarged by subsequent order the order is not complied with, the occupier will be liable to a fine not exceeding one pound for every day that such non-compliance continues.

This provision, it will be observed, is similar to that contained in section 81 of the Act of 1878 (see above, pages 26 and 27).

The first questions that arise with respect to these sections are to what extent they have imposed new obligations on the owners or occupiers of bake-

Questions
which arise
with respect
to these
sections.

houses, and how far they have extended the power to enforce the sanitary regulation of bakehouses?

Taking the case, first, of premises which were not let as bakehouses prior to the 1st of June, 1883, the answer to the former of these questions appears to be that for the first time the obligation has been imposed of providing a cistern for the supply of water to the bakehouse, which shall be separate and distinct from any cistern for supplying water to a watercloset. Having regard to so much of section 3 of the Act of 1878, as requires every bakehouse to be kept in a cleanly state, and free from effluvia arising from any drain, privy, or other nuisance, it is not clear that so much of section 15 as prohibits any direct communication between waterclosets, earthclosets, privies, or ashpits, and the new bakehouses, and the opening within such bakehouses of any drain or pipe for carrying off sewage matter, has practically imposed any new obligation on the owners or occupiers of such bakehouses; but it has apparently been considered desirable by the framers of the latter section, to define the existing obligations of such owners or occupiers with greater precision than had formerly been done. Under the circumstances, it is perhaps to be regretted that this part of the section was not made applicable to bakehouses let or occupied as such before as well as after the 1st of June, 1883.

Coming next to section 16, which imposes fines on the occupier of any room or place used as a bakehouse (whether the same was or was not so used before the passing of the Act), which is in such a state as to be, on sanitary grounds, unfit for use or occupation as a bakehouse, it needs no great gift of prophecy to foresee that different magistrates and legal advisers will take very different views as to what conditions bring a room or place into "such a state as to be, on sanitary grounds, unfit for use or

occupation as a bakehouse." For example, does a failure on the part of an occupier of a bakehouse to comply with the requirements of section 15, which is expressly limited to rooms or places not let or occupied as bakehouses prior to the 1st of June, 1883, render a room or place occupied prior to that date as a bakehouse "on sanitary grounds, unfit for use or occupation as a bakehouse?" The majority of sanitarians would probably maintain that it does. Is it to be held that the Legislature has considered that it does not? If so, what was the object of the enactments in section 15? These questions are not easy to answer. Taking the two sections together, the most probable construction of the Act would seem to be that a mere breach as regards bakehouses existing before the 1st of June, 1883, of the regulations contained in section 15, would not render the bakehouse unfit for use or occupation within the meaning of section 16. If effluvia can be proved to enter the bakehouse from any drain, privy, or other nuisance, it will probably be more desirable to take proceedings under section 3 of the Act of 1878, than under section 16 of the Act of 1883.

In the same way it will probably be well to avoid relying on section 16, if proceedings can safely be taken under any other provision in either of the two Acts, and to have recourse to it only in cases which are not otherwise provided for in either Act, and in which it is, nevertheless, clear that the room or place is, "on sanitary grounds, unfit for use or occupation as a bakehouse." If the section is thus used, its importance will depend mainly on the extent to which the other provisions of the two Acts relating to the sanitary regulation of bakehouses are found in practice to be defective or insufficient.

Powers of
entry, &c.,
given to the
Medical Offi-
cer of Health.

For the purpose of enabling the local authority to enforce the foregoing sections of the two Acts, section 17 (1) of the Act of 1883 provides that

“the Medical Officer of Health of the local authority shall have and exercise all such powers of entry, inspection, taking legal proceedings and otherwise, as a Factory Inspector under the Factory and Workshop Act, 1878.” The provisions of the Act of 1878 relating to these powers are contained in sections 68 to 70 of that Act.

Section 68 enables an Inspector, “for the purpose of the execution of this Act, to do all or any of the following things, viz. :—

Section 68 of the Factory and Workshop Act, 1878.

- (1.) To enter, inspect, and examine at all reasonable times by day and night, a factory and workshop and every part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe to be a factory, or workshop ; and
- (2.) To take with him in either case a constable into a factory in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty ; and
- (3.) To require the production of the registers, certificates, notices, and documents kept in pursuance of this Act, and to inspect, examine, and copy the same ; and
- (4.) To make such examination and inquiry as may be necessary to ascertain, whether the enactments for the time being in force relating to public health and the enactments of this Act are complied with, so far as respects the factory or workshop and the persons employed therein ; and

* * * * *

- (6.) To examine either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in a factory or work-

shop . . . and to require such person to be so examined and to sign a declaration of the truth of the matters respecting which he is examined ; and

- (7.) To exercise such other powers as may be necessary for carrying this Act into effect."

In addition to the above powers, Factory Inspectors possess, under sub-section (5) of this section, the power to enter any school in which they have reasonable cause to believe that children for the time being employed in a factory or workshop are for the time being educated ; but this power is not one which it would seem to be necessary for a Medical Officer of Health to exercise for the purposes of these Acts.

Sub-section
(1).

With respect to the powers conferred on Medical Officers of Health by the above-quoted provisions, it will be noted that sub-section (1) will enable a Medical Officer of Health to enter, inspect, and examine a retail bakehouse at any reasonable time either by day or by night when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe to be a retail bakehouse, whether or not at the time of entry persons are employed therein. By section 96 of the Act the expression "night" is defined as meaning "the period between nine o'clock in the evening and six o'clock in the succeeding morning," and it seems, therefore, reasonable to infer that, for the purpose of this section, the expression "day" means "the period between six o'clock in the morning and nine o'clock in the succeeding evening." The power of entry by night is likely to be serviceable, as the baking of bread is usually a night trade. The baking of biscuits and confectionery, on the other hand, which is a trade at which women are employed, is usually carried on during the day ; but

it would appear that it is occasionally carried on at night, for the annual reports of the Chief Inspector of Factories record cases in which convictions have been obtained in respect of the employment of women by night at this trade.

As regards sub-section (2), it should be observed that it only enables the Medical Officer of Health to take a constable with him into a factory, and not into a workshop. On reference to section 93 of the Act it will be seen that a bakehouse will be a "workshop" and not a "factory," unless within its "close or curtilage or precincts steam, water, or other mechanical power is used in aid of the manufacturing process carried on there." The majority of retail bakehouses will, therefore, be workshops and not factories.

The powers given by sub-section (4) of making such examination and inquiry as may be necessary to ascertain whether the enactments for the time being in force relating to public health are complied with, were probably conferred on Factory Inspectors in order to enable them to carry into effect the directions of section 4 of the Act, which provides that "where it appears to an Inspector under this Act that any act, neglect, or default in relation to any drain, watercloset, earthcloset, privy, ashpit, water-supply, nuisance, or other matter in a factory or workshop is punishable or remediable under the law relating to public health, but not under this Act, that inspector shall give notice in writing of such act, neglect, or default to the sanitary authority in whose district the factory or workshop is situate." Having regard to the purpose for which these powers were given, it may possibly be contended that they have not been transferred to Medical Officers of Health for the purposes of section 17 of the Factory and Workshop Act, 1883. It must, however, be remembered that

independently of this Act, the Medical Officers of Health of Sanitary Authorities will have the powers of entry given by the Public Health Act, 1875, to officers of local authorities for the purpose of enforcing such of the provisions of that Act relating to the public health as may be enforced with respect to retail bakehouses. The same remark *mutatis mutandis* applies to the powers of entry, which Metropolitan Medical Officers of Health will possess under the Nuisances Removal Acts for the purpose of enforcing the provisions of those Acts as regards these establishments.

Sub-section
(7).
Power of
Medical
Officer of
Health to take
legal proceed-
ings.

Sub-section (7) of this section when read in connexion with so much of section 17 (1) of the Act of 1883, as provides that a Medical Officer of Health shall have and exercise all such powers of taking legal proceedings as a Factory Inspector under this Act, at first sight seems to enable a Medical Officer of Health. *proprio motu*, in the same manner as a Factory Inspector, to take legal proceedings under either of the two Acts on behalf of the local authority. Having regard, however, to the general practice in relation to the institution of legal proceedings by local authorities, to the numerous legal points that may arise in connexion with prosecutions under these Acts, and to the fact that section 259 of the Public Health Act, 1875, has provided that sanitary authorities "may appear before any court or in any legal proceeding by their clerk or by any officer or member authorized generally or in respect of any special proceeding by resolution of such authority," it would probably be desirable that before instituting any legal proceedings for enforcing these Acts, the Medical Officer should fortify himself with a resolution of his local authority, empowering him either generally or in any special case to take such proceedings. The question whether the local authority can appear

before the court by any other officer in respect of proceedings under these Acts is one of considerable practical importance. If the Factory Acts stood alone, it would appear that the Medical Officer of Health was indicated by the Legislature as the proper officer for instituting legal proceedings. It must, however, be borne in mind that section 259 of the Public Health Act, to which reference has already been made, expressly empowers the clerk of any sanitary authority, or any officer or member authorized generally or specially by resolution, to institute and carry on any proceeding which such sanitary authority is authorized to institute and carry on under that Act. In construing this section, it should be remembered that sections 10 and 11 of the Public Health Act provide that every sanitary authority "shall within their district (to the exclusion of any other authority which may have previously exercised or been subject to the same) have exercise and be subject to all the powers, rights, duties, capacities, liabilities, and obligations within such district exercisable by or attaching to the local authority under the Bakehouse Regulation Act, or any Acts amending the same." The Bakehouse Regulation Act has been repealed by section 107 of the Factory and Workshop Act, 1878; but section 102 of the latter Act has provided that any enactment referring to the Acts repealed by that Act, or any of them, shall be construed to refer to that Act (*i.e.*, the Factory and Workshop Act, 1878) and to the corresponding enactment thereof. It may be contended that the effect of this section, in the present case, has been that "the Factory and Workshop Acts, 1878 and 1883, and any Acts amending the same," are substituted for "the Bakehouse Regulation Act or any Acts amending the same" in sections 10 and 11 of the Public Health Act, 1875. If this is so, it may be

that the Sanitary Authority are authorized under the Public Health Act to institute proceedings for enforcing the provisions of the Factory and Workshop Acts, 1878 and 1883, with respect to retail bakehouses, and that such proceedings may be instituted by the clerk or any officer or member empowered by a resolution of the Sanitary Authority to take them. The point, however, is not so free from doubt as to render it desirable, in the opinion of the present writer, for the Sanitary Authority to direct any one but the Medical Officer of Health to institute these proceedings. It is clear that under the statutes he may institute them, if empowered to do so by a resolution of the local authority, and in taking proceedings he would, no doubt, be guided, if necessary, by the advice of the clerk or legal adviser of the local authority.

Remaining
provisions of
section 68.

Besides conferring the above powers on Factory Inspectors for the purpose of the execution of the Act, section 68 of the Act of 1878 imposes on the occupier of every factory and workshop, and his agents and servants, the duty of furnishing the means required by an inspector as necessary for an entry, inspection, examination, or inquiry, or the exercise of his powers under the Act in relation to such factory or workshop.

Every person who wilfully delays an inspector in the exercise of any power under this section or who fails to comply with a requisition of an inspector in pursuance of this section, or to produce any certificate or document, which he is required by or in pursuance of this Act to produce, or who conceals or prevents a child, young person, or woman from appearing before, or being examined by, an inspector, or attempts so to conceal or prevent a child, young person, or woman, will be deemed to obstruct an inspector in the execution of his duties under this Act. But no person under this section will be

required to answer any question or to give any evidence tending to criminate himself.

Where an inspector is obstructed in the execution of his duties under the Act, the person obstructing him will be liable to a fine not exceeding five pounds ; and where an inspector is so obstructed in a factory or workshop, the occupier of such factory or workshop will be liable to a fine not exceeding five, or when the offence is committed at night, twenty pounds.

It is to be regretted that the Act of 1883 has not by any express enactment rendered the above provisions applicable to Medical Officers of Health for the purpose of enabling them to exercise the powers given to them by section 17 (1) of that Act. It may, of course, be contended that they are rendered so applicable by implication ; but on the other hand the provisions are penal, and are likely, therefore, to be construed strictly. In the event of their being held to be inapplicable to Medical Officers of Health, it might possibly be contended that section 306 of the Public Health Act, 1875, which imposes penalties on persons obstructing the execution of that Act, applies, in the cases of the Medical Officers of Health of sanitary authorities, by a similar process of reasoning to that described on page 37 ; but the contention would be a far-fetched one, and the stronger ground to rely on would perhaps be that all the provisions of section 68 are necessarily made applicable by implication, in order to enable Medical Officers of Health to exercise the powers of the Factory Inspectors.

Whether these provisions are applicable to Medical Officers of Health.

Somewhat similar questions arise with respect to the applicability to Medical Officers of Health of section 69 of the Act of 1878, the first paragraph of which provides that an inspector, before entering, in pursuance of the powers conferred by that Act, any room or place actually used as a dwelling as

Section 69.

well as for a factory or workshop, shall, on an affidavit or statutory declaration of facts and reasons, obtain written authority so to do from a Secretary of State or a warrant from a justice of the peace. Here, however, as the enactment restricts the power of entry possessed by a Factory Inspector, or, in other words, as in cases to which the section applies, the inspector only possesses the power of entry when he has obtained the authority of the Secretary of State or the warrant of a justice of the peace, it seems tolerably clear that Medical Officers of Health would not be empowered to enter any room or place to which the section may apply without the written authority or warrant which is required as a condition precedent to the exercise of the power of entry by the Factory Inspector. There remains then the question whether a justice of the peace may give the necessary warrant to a Medical Officer of Health, as he is only authorized by the Act to give it to a Factory Inspector. If any difficulty is experienced in this respect, it will probably be well to apply to the Secretary of State for his written authority, for as the Act assumes that he has the power of granting it to the inspector, it may also be fairly assumed that he has also the power of granting it to a Medical Officer of Health. Fortunately, the number of cases in which for the purpose of inspecting a retail bakehouse it will be necessary for a Medical Officer of Health to enter any room or place¹ which is used as a dwelling as well as a factory or workshop is not likely to be very large. It seems, therefore, hardly necessary to set the section out at length in this portion of the present work.

Section 70.

On applying for admission to a factory or workshop, a Factory Inspector must, if required, produce

¹ As to the definition of workshop, see above, page 25.

to the occupier the certificate of his appointment, prescribed for the time being by the Secretary of State (section 70). This requirement can hardly be considered applicable to a Medical Officer of Health. It may, however, be desirable that he should have some evidence of his appointment to produce, if required to do so by the occupier.

Reference¹ has already been made to the duty of Factory Inspectors under section 4 of the Factory and Workshop Act, 1878, to give notice to the Sanitary Authority of sanitary defects in factories and workshops. A somewhat analogous duty is imposed, by section 17 (2) of the Act of 1883, on Medical Officers of Health, when they become aware of the employment in any retail bakehouse of any person under the age of eighteen years, or of any woman. In any such case they are required to give written notice of such employment to the Factory Inspector of the district. It is to be observed that this notice must be given, whether or not the employment is illegal; and that it will not, therefore, be necessary for the Medical Officer, for the purpose of this sub-section, to ascertain whether or not such person or woman is employed in contravention of the Act. In giving the notice, it seems to be contemplated that he should specify whether the person employed is within the meaning of the Acts (as to which see section 96 of the Act of 1878), "a child," *i.e.*, a person under the age of fourteen years, "a young person," *i.e.*, a person above the age of fourteen years and under the age of eighteen years, or "a woman," *i.e.*, a woman of eighteen years of age and upwards.

In relation to the taking of proceedings under the Act, it should be mentioned that where an agent, servant, workman, or other person, has

Duty of Medical Officer of Health to give notice of employment of young persons and women.

Person committing offence for which occupier is liable.

¹ Page 35.

committed an offence, for which the occupier of a factory or workshop is liable, he will be liable to the same fine as if he were the occupier (section 86); and that where the occupier of a factory or workshop is charged with an offence against the Act, he will be entitled, upon information duly laid by him, to have any other person, whom he charges as the actual offender, brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, he proves that he had used due diligence to enforce the execution of the Act, and that the other person so charged by him had committed the offence without his knowledge, consent, or connivance, such person must be summarily convicted of the offence, and the occupier will be exempt from any fine (section 87). The Act also provides that when it is made to appear to the satisfaction of an inspector at the time of discovering the offence, that the occupier had used all due diligence to enforce the execution of the Act, and also by what person the offence had been committed, and also that it had been committed without the knowledge, consent, or connivance of the occupier, and in contravention of his orders, then the inspector shall proceed against the person whom he believes to be the actual offender in the first instance, without first proceeding against the occupier (section 87).

Duty of inspector to proceed against actual offender rather than the occupier.

Desirable that local authority should act in conformity with this principle.

Though the above provision is not expressly made applicable by the Factory and Workshop Act, 1883, to the local authority or the Medical Officer of Health, as regards retail bakehouses, it will manifestly be desirable that they should act as if it applied.

Application and recovery of fines.

Fines imposed in pursuance of the Act, so far as it relates to retail bakehouses, will be paid into the Exchequer (section 89). They will be recoverable

in a Court of Summary Jurisdiction; and any person aggrieved by any conviction or order made by such Court, on determining an information or complaint under the Act, may appeal to the Court of Quarter Sessions (section 90). For details as to the provisions relating to such appeal the reader should refer to the Appendix.

Appeal to
Quarter Ses-
sions.

In all summary proceedings for offences and fines under the Act in respect of retail bakehouses, it will be necessary that the information should be laid within two months, or where the offence is punishable at discretion by imprisonment, within three months after the commission of the offence (section 91).

Limitation of
time as to
summary pro-
ceedings.

The Act of 1883 contains no express enactment as to the manner in which the expenses incurred by local authorities, in carrying the above provisions into effect, are to be defrayed; but as local authorities have no option left to them, whether or not they will enforce such provisions, it would, probably, follow as a necessary consequence, if there were no other statutory enactment on the subject, that they might apply to this purpose any available funds which they might possess applicable to the general purposes for which they have been constituted local authorities. Before, however, determining whether any such power has been given by implication, it is necessary, in the first place, to ascertain whether there is any statutory enactment outside the Acts of 1878 and 1883 which has any bearing on the subject. Section 7 of the Bakehouse Regulation Act provided that all expenses incurred by any local authority in pursuance of its provisions might be paid out of any rate leviable by them and applicable to the payment of the expenses incurred by such Authority under the Nuisances Removal Acts, and the Authority might levy such rate accordingly. The 10th and 11th sections of

Expenses of
carrying the
Acts of 1878
and 1883 into
execution.

the Public Health Act, 1875, as has been already pointed out, provide that every Sanitary Authority within its district "shall have, exercise, and be subject to, all the powers, rights, duties, capacities, liabilities and obligations within such district, exercisable by, or attaching to, the local authority under the Bakehouse Regulation Act, or any Acts amending the same." The same Act repealed the Nuisances Removal Acts, except so far as they related to the Metropolis. These Acts were included in the definition of "Sanitary Acts ;" and section 313 of the Public Health Act, 1875, provides that, "where in any Act any provisions of any of the Sanitary Acts, which are repealed by this Act, are mentioned or referred to, such Act shall be read as if the provisions of this Act applicable to purposes the same as, or similar to, those of the repealed provisions were therein mentioned or referred to instead of such repealed provisions and were substituted for the same." The effect of this section seems, therefore, to have been to substitute the provisions of the Public Health Act, 1875, applicable to the same purposes as those of the Nuisances Removal Acts, for the provisions of the repealed Nuisances Removal Acts. On the passing, therefore, of the Public Health Act, 1875, and until the repeal of the Bakehouse Regulation Act in 1878, section 7 of the latter Act must apparently be read as having provided that all expenses incurred by any Sanitary Authority in England and Wales, in pursuance of its provisions, might be paid out of any rate leviable by them and applicable to the payment of the expenses incurred by such Authority under such of the provisions of the Public Health Act, 1875, as related to the removal of nuisances. In the meanwhile the Nuisances Removal Acts not having been repealed as regards the Metropolis, the expenses incurred by

local authorities in the Metropolis under the Bakehouse Regulation Act continued to be payable out of any rate leviable by them and applicable to the payment of expenses under the Nuisances Removal Acts.

The Factory and Workshop Act, 1878, repeals the Bakehouse Regulation Act (section 107); but provides (section 102), that "any enactment . . . referring to the Acts repealed by this Act or any of them, or to any enactment thereof, shall be construed to refer to this Act, and to the corresponding enactment thereof." It practically re-enacts (see sections 3, 34 and 35), some of the provisions of the Bakehouse Regulation Act, but transfers the power of carrying them into effect from the local authorities to the Factory Inspectors.

The Factory and Workshop Act, 1883, extends such of the provisions of the Act of 1878 as relate to bakehouses; provides that it is to be read as one with that Act; and transfers to the local authorities, as regards retail bakehouses, the duty of enforcing the sanitary provisions of the two Acts.

Will the expenses of enforcing these provisions now be payable in the same manner as the expenses of enforcing the Bakehouse Regulation Act were payable prior to the repeal of that Act in 1878, or rather in the same manner as such last-mentioned expenses would now be payable if that Act had not been repealed?

It appears to the present writer that in England and Wales they are probably so payable, either by the direct operation of the above enactments, or by implication arising from the course which has been taken by the Legislature with respect to this matter, culminating in section 17 (1) of the Factory and Workshop Act, 1883.

Statutory enactments outside the Factory and Workshop Acts available for sanitary regulation of bakehouses.

It remains to be considered what are the provisions of the general law besides those contained in the Factory and Workshop Acts, which are available as auxiliaries for enforcing the sanitary regulation of retail bakehouses. As regards bakehouses outside of the metropolis, these provisions are contained in the Public Health Act, 1875. So far as they relate to the metropolis, the Nuisances Removal Acts were not repealed by that Act, and the provisions in question, which are available for metropolitan authorities are, therefore, still contained in those Acts.

Different provisions so available inside and outside of metropolis as regards removal of nuisances in bakehouses.

By what, perhaps, was an oversight on the part of the framers of the Factory and Workshop Act, 1878, diametrically opposite policies were pursued outside and inside the metropolis as regards the powers which were conceded to local authorities in relation to the institution of proceedings for the removal of nuisances in certain factories and workshops, including bakehouses. Outside the metropolis the local authorities were, by an express enactment, prohibited from taking these proceedings. Inside the metropolis they were authorized to take them by the express repeal of an existing prohibition. See section 101 of the Act which declares that "the provisions of section 91 of the Public Health Act, 1875, with respect to a factory, workshop, or workplace, not kept in a cleanly state, or not ventilated, or overcrowded, shall not apply to a factory or workshop, which is subject to the provisions of this Act relating to cleanliness, ventilation, and overcrowding," and section 109, and the Sixth Schedule to the Act, which, by repealing the following words in section 19 of the Sanitary Act, 1866, "not already under the operation of any general Act for the regulation of factories or bakehouses," for the first time enabled the local

authorities of the metropolis to take proceedings for the abatement of nuisances in factories and bakehouses. This anomaly seems still to prevail. Outside the metropolis, no proceedings under the Public Health Act, 1875, can be taken by any urban or rural sanitary authority for the abatement of any nuisance within the meaning of that Act, in a factory or workshop which is subject to the provisions of the Factory and Workshop Act, 1878, relating to cleanliness, ventilation, and overcrowding. Inside the metropolis the analogous provisions of the Nuisances Removal Acts are still available for this purpose. Fortunately, now that the enforcement of the Factory and Workshop Acts has been handed over to the local authorities, the anomaly is not likely to be of much practical importance, so far as retail bakehouses are concerned ; for the majority of the cases in which a nuisance in a retail bakehouse could have been dealt with under the provisions of the Public Health Act, 1875, relating to nuisances, can now be dealt with by the Sanitary Authority under sections 3, 81, and 89 of the Factory and Workshop Act, 1878. As regards other factories and workshops where the provisions as to cleanliness, ventilation, and overcrowding are still enforced by the Factory Inspectors, the distinction is still of importance ; and the local authorities in the provinces are apparently placed at some disadvantage in these cases as compared with the local authorities in the metropolis.

This disadvantage, however, it may be considered, is to some extent counter-balanced by the operation of the second paragraph in section 101 of the Factory and Workshop Act, 1878, which declares that the Public Health Act, 1875, shall apply to buildings in which persons are employed, whatever their number may be, in like manner as it applies

Bakehouses included in definition of "houses" for the purpose of the Public Health Act, 1875.

to buildings where more than twenty are employed. In order to get at the meaning of this, at first sight, simple enactment, it is necessary, in the first place, to refer to the definition of "house" in section 4 of the Public Health Act, 1878, which includes "schools, also factories or other buildings in which *more than twenty persons* are employed *at one time*." Reference must next be made to section 107 and the Sixth Schedule of the Factory and Workshop Act, 1878, the result of which will be to discover that in section 4 of the Public Health Act the following words, "more than twenty," and "at any time," are now repealed. The effect, therefore, of the two above-quoted sections and Schedule of the Factory and Workshop Act, 1878, seems to be that the definition of "house" in the Public Health Act, includes all factories or other buildings in which persons are employed. To any one unacquainted with the style in which some modern Acts of Parliament are drawn, it might possibly occur that this very recondite amendment might have been effected by a somewhat less roundabout process.

However this may be, the amendment is of importance, as it enables Urban and Rural Sanitary Authorities, under the Public Health Act, 1875, to enforce the drainage of undrained workshops (including bakehouses) (section 23); to require them to be drained into new sewers (section 24); to prevent them being built without proper privy accommodation (section 35); and in urban districts without drains (section 25); to enforce the provision of privy or earthcloset accommodation in existing bakehouses (sections 36 and 37); to require them to be furnished with a proper supply of water (section 62); and, in fact, to insist on the same sanitary conditions being observed in respect of them as are enforceable under the Act in respect of houses.

In addition to the provisions of the Public Health Acts, 1875 and 1878, relating to houses, there are other provisions of the former Act which may, in some cases, be serviceable in connexion with bakehouses ; *e.g.*, where it is desirable to close a polluted well under section 70, or to disinfect premises under section 120. These and the other provisions of that Act are, however, probably too well known to Sanitary Authorities to call for comment in the present work.

Other provisions of the Public Health Act, 1875, applicable.



CHAPTER III.

Necessity for the Sanitary Regulation of Retail Bakehouses.

Reasons for fearing that the sanitary regulation of retail bakehouses may not be properly enforced.

CONSIDERING how large a proportion of the food of every household comes from retail bakehouses, it may seem to some a work of supererogation to endeavour to show that these establishments require to be systematically inspected and regulated by Sanitary Authorities. But as there are good grounds for supposing that many of them have been free from any kind of inspection or regulation in the past, there is some reason to fear that they may enjoy a similar immunity in the future.

Nor is it altogether improbable that there may be an indisposition on the part of local authorities to resume with zeal, after so long an interval, the thankless task of supervising these places, involving as it must some interference with trading interests, unless the necessity for their doing so for the protection of the public is made clear to them beyond the possibility of a doubt. They may argue that as the cases, if any, in which actual injury to the public health can be proved to have resulted from the existing condition of bakehouses are not numerous, and, as any undue interference with the baking business may bring about the very serious result of raising the price of bread, it may be desirable for them to refrain from taking any active steps in the matter.

Reasons for hoping that it may be.

In the interests of local self-government it is to be hoped that they will come to a very different

conclusion. They have now an excellent opportunity of showing how much better work of this kind can be done by a local than by a central authority. In the metropolis this has already been demonstrated in the face of considerable difficulties by energetic Medical Officers of Health, with the result that the work has been re-transferred from the Factory Inspectors to the public bodies, from whom it seems clear that it ought never to have been taken. It would be a matter for regret if the past were to repeat itself, and Parliament were hereafter to find it necessary to again take this work from the local authorities and hand it back to a central authority.

The interests of the trade have evidently been so carefully considered by the Legislature, in dealing with retail bakehouses, that no local authority need be under any apprehension that, however stringently the existing law is put in force, any rise in the price of bread will ensue. And the statutory requirements with respect to these places can hardly be considered by the least fastidious person to be excessive. Probably no one would like to think that his bread had come from a bakehouse, or would care himself to work in a bakehouse, in which they were disregarded. A compliance with them ought in no case to involve a large outlay. It is difficult to believe that wholesome bread and confectionery can be made in filthy places ; and it would be contrary to experience to hold that no danger to health will arise when food is made and baked under conditions which render it impossible for the materials and utensils used to be kept clean during the process. If no injury to health has yet been proved to result from an ill-kept bakehouse, it seems more reasonable, bearing in mind the very irregular manner in which bakehouses have hitherto been supervised, to conclude that the explanation is to be found rather in the fact that the injury has been

overlooked than that is has not taken place. The only other probable assumption would be that, as a general rule, bakehouses have been so well kept that it is not necessary to place them under inspection and control.

That this, at any rate, is not the case, there is abundant evidence, notwithstanding the very partial manner in which bakehouses have as yet been inspected. On this point it will be desirable to quote from the Reports of the Factory Inspectors and also from those of some of the Metropolitan Officers of Health. In the first instance reference made be made to the following Report of Mr. Lakeman on Metropolitan bakehouses, which has already been alluded to in Chapter I., page 14.

Mr. Lake-
man's
Reports.

Mr. Lakeman says :—

“ The inspection of bakehouses having been
“ undertaken by us since the passing of the Factory
“ and Workshop Act, 1878, I deem it to be a subject
“ of sufficient interest to mention in my Report, that
“ you might know to what extent the Act had been
“ respected, and the condition in which many bake-
“ houses were found. It will be generally conceded
“ that where the ‘ staff of life ’ is manufactured the
“ place, utensils used, and persons employed in the
“ process, should be scrupulously clean, and, at any
“ rate, the sanitary conditions of all bakehouses
“ should bear the test of the Act of 1878.

“ Since January, 1880, we have paid 1,417 visits
“ to bakehouses in my London district, being equal
“ to about three-fourths of the total number of
“ bakeries, in nearly all of which only adult males
“ are employed ; the rules as to sleeping accommo-
“ dation are fairly obeyed, for the very few who
“ sleep next to the bakehouses have space and
“ window light as prescribed, though of the ventila-
“ tion and cleanliness of the apartments I cannot
“ say much. Many bakeries are carried on by

“one master, and many changes of occupiers are
“frequently made, for, as no great capital is
“necessary upon entering a bakehouse where the
“oven is erected, and as the miller allows time for
“payment of his flour, the baker can sell the bread
“before the miller comes round.

“This easy mode of procedure seems to have a
“charm for Germans, who are gradually becoming
“the bakers for London, and who, in many cases,
“for want of enlarged means, neglect those rules
“which we are called upon to enforce : the workman
“is a counterpart of his master, for as the one is
“careless so is the other. I consider it objectionable
“to smoke tobacco from pipes and cigarettes during
“the kneading of the dough ; I do not think it is
“cleanly for men semi-nude, with profuse perspira-
“tion dripping down their shoulders and arms, to
“lean over the troughs and work up bread in such
“a state ; nor do I believe that wholesome bread
“can be made out of unclean utensils.

“It may be said that all this is outside my
“province, and that law upon sanitation and venti-
“lation does not include a supervision of the
“personal habits of workmen, nor even sanction a
“remark upon the quality or value of the thing
“manufactured ; but if, through the sanitary clauses
“of the Act, we can improve the part or parts of a
“system, though collaterally, we may thereby hope
“to complete the whole intention of supervision,
“and we must aim as successfully as we have done
“in other trades at inducing bakers to accept our
“visits for a general good.

“It is undeniable that many of the bakehouses
“in my London district were unfit for their pur-
“pose, and some are so now, being underground,
“dark, ill-ventilated, damp, very small, unduly
“hot, often filled with vapour, cobwebs and dust
“ornamenting the walls, the holes and corners

“of these converted dwelling-houses not cleaned out.

“Sinks were found without traps, and uncovered, in the bakehouse ; the lime-washing done in an imperfect manner ; waterclosets in the bakehouses, some without water supply or ventilation, the smell from them not agreeable : the refuse was swept under the troughs, where it lay until a large quantity was collected ; this most objectionable practice, which was universal, I am gradually breaking down, for I am credibly informed that the said refuse, when acted upon by damp and heat, generates insects innumerable ; I pronounce this to be uncleanly, and have forbidden it, for I am persuaded that the public should have some satisfaction in believing that a salutary law is now being enforced for their benefit.

“I do not hope to see upon my next visits to certain bakeries a horse stabled in one, his litter such as would be seen in neglected stables, nor rabbits running about that they may fatten upon the offal flour, nor fowls roosting above the trough, the lid of which was certainly not open at the time. I have seen liquid manure from a stable running under the sacks of flour, and the imperfect drain of a privy overflowing upon a bakehouse floor. I have also seen an open drain, two feet square, into which liquid from an adjoining premises flowed, and over which tins of buns were laid to cool ; therefore I do not think for humanity sake we should regret that the inspection of bakehouses has been added to our duties.

“In the country bakeries I find cleanliness, ventilation, and light, for the bakehouses were built for their purpose, and although one cannot expect a London bakehouse, which originally was a cellar, to be so well ventilated or as clean as they, yet I may be permitted to say that much

“ may be done, and in truth must be done, to
“ improve their condition, and to influence masters
“ and men aright.”

In a supplementary Report, made by Mr. Lake-
man in the following year, and printed in the
Annual Report of the Chief Inspector of Factories
for the year 1882, he says :—

“ Every bakehouse visited by us has been lime-
“ washed more or less frequently during the year,
“ with only two exceptions ; the practice of accu-
“ mulating heaps of refuse under troughs has been
“ largely decreased, traps to sinks are not found
“ broken or lost to the extent of last year, but no
“ advance has been made in the ventilation of
“ worst places, nor can there be in bakehouses
“ situated under the shops.

“ The worst revelations of last year have been satis-
“ factorily dealt with. One occupier who allowed an
“ open sink to stand in a bakehouse, and liquid to
“ overflow into the bakehouse, was prosecuted and
“ fined in 20s. and costs,¹ and another, who made
“ the bakehouse a habitation for fowls, was fined
“ £5 and costs ;² the horse found littered beside a
“ bakehouse has been removed, and stable pulled
“ down ; the liquid manure found running under
“ sacks of flour has been stopped by removal of
“ horse and stable ; and even in the luxury of
“ tobacco smoking when at work I have jotted
“ down only eighteen instances.

“ We have endeavoured to improve the ventila-
“ tion and to secure a water supply for the abomin-
“ able closets in bakehouses. I can allude to a few
“ where our requests have been liberally met, but
“ where there is a disinclination to erect flush

¹ In this case the defendant declared in Court that the premises
had been in the same condition for fifteen years.

² In this case the defendant, in reply to the magistrate, said that
the same state of things had existed for half a century.

"cisterns, we cannot enforce it, so long as care is taken to flush by hand."

Other reports
by Factory
Inspectors,
and Chief In-
spector of
Factories.

In the same Annual Report quotations are given from the reports of other Inspectors of Factories, *e.g.*, Mr. Gould, whose district is also a Metropolitan one, speaking of the ventilation of bakehouses, says :—

"The provision of ventilation, as in many classes of workshops, is too often neglected in bakehouses, but in basements there is an inherent difficulty in combining a free circulation of air with the desire to avoid a draught, and with the necessity of maintaining a high temperature for considerable periods. We generally find means of ventilation existing, but a considerable reluctance to use them."

Mr. J. A. Redgrave, speaking of the bakehouses in the Metropolis south of the Thames, says :—

"Lime-washing appears to have been only partially insisted upon, and accumulations of refuse under the troughs have been general. This latter offence against cleanliness is one which must be stopped, as it is perfectly easy to have the matter swept up and placed in some receptacle every day instead of allowing it to remain under the troughs for a week or fortnight at a time. Instances, also, of drains that have been untrapped for years have come under my notice during inspection."

"As a rule, bakehouses where only bread is made are cleaner than those premises where pastry and confectionery of various kinds is made."

"The use of suet, butter, eggs, jams, &c., make this latter class of bakehouses very dirty, and much more diligence is required to keep them clean, and this is not always forthcoming."

In the same Annual Report the Chief Inspector of Factories says :—

“In a published report which has been placed before me, made by the Medical Officer of Health of one of the Metropolitan Districts, for 1878, the last year in which the Act of 1863 was in operation, it is stated that out of 92 bakehouses in his district, 11 had defective drains, 48 were in a dirty condition, 19 had closets in a foul and dirty state, and in 43 there were no traps to sinks. In some reports of the Metropolitan Medical Officers of Health which have appeared in the public papers, an enumeration is given of various instances of accumulation of refuse under the troughs, and of untrapped drains, of floors badly paved, of ceilings broken, of waterclosets badly placed, of bakehouses badly lighted, and of the trade being carried on in places totally unfitted to be used for the preparation of food. Proper inspection would mitigate the two first-named defects—dirty state and untrapped drains. The utter indifference that is sometimes to be met with will be shown by the following account of a recent visit of one of Her Majesty’s Inspectors to a bakehouse. He saw the floor completely riddled with holes, which were stated to be rat-holes. No attempt had been made to stop them, but he was informed that the baker stood over the holes in the dusk of the evening with a stout stick, and, upon the appearance of a rat, it was struck at, and in most cases successfully.”

Passing from the reports of the Inspectors of Factories to those of Metropolitan Medical Officers of Health, Dr. Bate, the Medical Officer of Health for the parish of St. Matthew, Bethnal Green, in the report for the year 1881-2, to which reference has already been made at pages 13 to 15, says :—

“I inspected a total of 114 bakehouses. About half are owned and managed by Germans, and several of the pastry-cook shops by Italians.

Reports of
Medical Offi-
cers of Health.

“Forty-one bakers carry on their business in underground cellars ; but there is nothing in the Buildings or Factory Acts to forbid underground premises being utilized for this purpose.¹

“The walls and roofs required lime-washing in 59 bakehouses, and the troughs and utensils were unclean in 23.

¹ An attempt was made in the Bill for the Factory and Workshop Act, 1883, to prohibit the occupation of underground premises in connexion with new bakehouses. The clause in question made it an offence to occupy as a bakehouse any cellar, room, or place which might be “less than one-half of its height above the level of the street, footway, or ground adjoining,” unless it had been so occupied before the 1st of June last. This clause, however, was somewhat severely criticised during the passage of the Bill through the House of Lords, and was struck out by the House of Commons. No doubt, if bakehouses could be provided as cheaply above as underground, they would, as a general rule, be more easily kept clean and properly ventilated in that position ; but as a matter of fact a large proportion of the bakehouses in towns are underground, in consequence of the difficulty of sparing the necessary amount of space above ground—*i.e.*, for the same reason that the kitchens in town houses are usually placed underground. The proposed prohibition might, therefore, have involved a serious restriction on the baking trade ; and the only argument on which it could have been defended would have been that it was absolutely necessary from a sanitary point of view. It seems clear from the reports of the Factory Inspectors and Medical Officers of Health, which are quoted in this work, that many underground bakehouses are very dirty places ; but it is difficult to believe that it can be impossible to keep a bakehouse clean and properly ventilated merely because it is underground, or rather, in the words of the clause referred to, because it is “less than one-half of its height above the level of the street, footway, or ground adjoining.” If a retail bakehouse is not only underground, but also in such a position underground as to render it impossible to ventilate it properly, or to keep it dry and clean, and otherwise fit for occupation as a bakehouse, proceedings may now be taken against the occupier under section 16 of the new Act, for allowing it to be “on sanitary grounds, unfit for use or occupation as a bakehouse” (see above, pages 30 to 32). The House of Commons seem, therefore, to have exercised a wise discretion, in expunging the proposed clause, which, in addition to the above objections to it, would have exercised a deterrent effect on the construction of new bakehouses, which, under the new Act, are subject to more stringent regulations than are applicable to existing bakehouses.

“ In 58 instances I found refuse flour swept under the troughs, which are invariably constructed so as to allow this. In almost every instance this refuse was dry ; still I quite agree with Mr. Lake-man that it is a most objectionable practice, and that it should be prohibited. It is usually collected, when a sufficient quantity has accumulated, and sold for the purpose of feeding pigs ; but as only about three shillings per sack is obtained for it, it would be a very small hardship to compel the bakers to burn it, instead of allowing it to accumulate.

“ Thirty-five of the bakehouses were badly ventilated, and 41 were badly lighted ; but this is not to be wondered at, when we take into consideration the large number that are situated underground.

“ In one instance I found a part of a bakehouse divided off by a slight wooden partition, and used as a sleeping room. The place is not sufficiently ventilated as required by the Act, neither is it properly separated from the bakehouse.

“ In 14 instances the sink traps in the bakehouses were defective ; but in this number I include all cases where bell traps were found, as I consider this particular trap to be little better than none at all. I found the traps in the yards adjoining the bakehouses to be similarly defective in 32 instances ; in 12 the waterclosets were badly placed ; but in only one (a pastry-cook's) was the closet actually within the bakehouse, though in another case it was in the flour loft. The closets were either foul, dilapidated, or badly ventilated in 61 instances.”

For further information on the same subject the reader may be referred to the quotations from the Reports of the Metropolitan Medical Officers of Health, given above, in Chapter I. See especially pages 17 and 18.

Deductions to
be drawn from
these Reports.

The above evidence will probably be sufficient to convince the reader that whatever may be their condition in rural districts, retail bakehouses are likely, in large towns, to get into an abominable condition, unless they are subjected to systematic control on the part of the local authorities. Judging from the state into which the bakehouses in the metropolis seem to have lapsed, after they had ceased for a year or two to be inspected by the Medical Officers of Health, what may we fairly conjecture to be the condition of similar places in large manufacturing towns, in which (and it is to be feared that there are only too many such towns) they have never hitherto been inspected or regulated at all either by the local authority or the Inspector of Factories? "It is a monstrous fact," says Dr. Dudfield, in his report to which we have already referred, "that an average bakehouse in the East End of London, if the Inspector's report may be relied on, is infinitely less fit, in point of construction, position, and condition for carrying on the manufacture of the staff of life, than many a slaughter-house." How readily, and with what little friction, many of the sanitary defects in those establishments can be removed under a judicious and systematic course of inspection may be inferred from the following quotation from the Annual Report of Dr. Collier, the Medical Officer of Health for the Fulham District, for the year 1881 :—"The whole of the bakehouses in the district were inspected. In a great many cases they were not found to be kept in a proper sanitary condition, and it was necessary to require the bakers, under legal notice, to remedy the defect. *In no case was it necessary to do more than serve a notice under the Nuisances Removal Acts, for in each instance the notice was at once complied with.*"

Ease with
which defects
can be
remedied
under judi-
cious system
of inspection.

Appendix.



APPENDIX.

- (1.) Parts of the Factory and Workshop Act, 1878,
relating to retail Bakehouses, with notes.
 - (2.) Parts of the Factory and Workshop Act, 1883,
relating to retail Bakehouses, with notes.
-

THE FACTORY AND WORKSHOP ACT, 1878.

[41 VICT., C. 16].

*An Act to consolidate and amend the Law relating
to Factories and Workshops.*

[27th May, 1878.]

Preliminary.

1. This Act may be cited as the Factory and Workshop Act, 1878.

* * * * *

PART I.

GENERAL LAW RELATING TO FACTORIES AND WORKSHOPS.

(1.) *Sanitary Provisions.*

'Sanitary¹ condition of factory and workshop.

3. A factory² and a workshop shall be kept in a cleanly state and free from effluvia arising from any drain, privy, or other nuisance.

A factory or workshop shall not be so overcrowded while work is carried on therein as to be injurious to the health of the persons employed³ therein, and shall be ventilated in such a manner as to render harmless, as far as practicable, all the gases, vapours, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health.

A factory or workshop in which there is a contravention of this section shall be deemed not to be kept in conformity⁴ with this Act.

¹ So far as retail bakehouses, within the definition contained in section 18 of the Factory and Workshop Act, 1883, are concerned, the duty of enforcing the provisions of this section, which are taken from section 4 of the Bakehouse Regulation Act, 1863, and section 91 (6) of the Public Health Act, 1875, has been transferred from the Factory Inspectors to the local authority. See section 17 of the Factory and Workshop Act, 1883.

² In order to ascertain what is a factory or workshop within the meaning of the Act, it is necessary to refer to section 93, from which it will be found in what cases a bakehouse is a factory, and in what cases it is a workshop, and what premises are included in the expression "factory or workshop." Having regard to the terms of section 93, the majority of retail bakehouses will probably be workshops and not factories.

³ As to what constitutes employment in a factory or workshop, see sections 92 and 94.

⁴ See section 81 as to the fine to which the occupier of any factory or workshop, not kept in conformity with the Act, will be liable, and as to the power of the Court to require means to be taken for bringing any factory or workshop into conformity with the Act.

4. Where it appears to an Inspector under this Act, that any act, neglect, or default in relation to any drain, watercloset, earthcloset, privy, ashpit, water-supply, nuisance, or other matter in a factory or workshop is punishable or remediable under the law relating to public health, but not under this Act,¹ that Inspector shall give notice in writing of such act, neglect, or default to the Sanitary Authority in whose district the factory or workshop is situate, and it shall be the duty of the Sanitary Authority to make such inquiry into the subject of the notice, and take such action thereon, as to that authority may seem proper for the purpose of enforcing the law.

Notice by
Inspector to
Sanitary
Authority
of sanitary
defects in
factory or
workshop.

An Inspector under this Act may, for the purposes of this section, take with him into a factory or a workshop a Medical Officer of Health, Inspector of Nuisances, or other officer of the Sanitary Authority.

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¹ It should be noted that this Act is to be construed as one with the Factory and Workshop Act, 1883, sections 15 and 16 of which will enable the local authority, as regards retail bakehouses, and the Factory Inspectors, as regards other bakehouses, to require many of the sanitary defects to be remedied, to which this section would otherwise have applied. In considering the effect of the section in particular cases, as regards the urban and rural sanitary districts of England and Wales, section 101 of this Act should not be lost sight of. The effect of that section is apparently to prevent proceedings being taken in respect of bakehouses under section 91 of the Public Health Act, 1875, but to bring bakehouses within the definition of "houses" for the other purposes of that Act, *e.g.*, for the purposes of sections 23 to 25, 35 to 38, and 62. There are other purposes for which this section may be of service so far as bakehouses are concerned, *e.g.*, where, in an urban or rural sanitary district, a polluted well should be closed under section 70 of the Public Health Act, 1875, or premises require to be disinfected under section 120.

PART II.

SPECIAL PROVISIONS RELATING TO PARTICULAR CLASSES OF FACTORIES AND WORKSHOPS.

(1.) *Special Provisions for Health in certain Factories and Workshops.*

Lime-washing
and washing
of the interior
of factories
and work-
shops.

33. For the purpose of securing the observance of the requirements of this Act as to cleanliness in every factory¹ and workshop, all the inside walls of the rooms² of a factory or workshop, and all the ceilings or tops of such rooms (whether such walls, ceilings, or tops be plastered or not), and all the passages² and staircases² of a factory or workshop, if they have not been painted with oil or varnished once at least within seven years, shall be lime-washed once at least within every fourteen months, to date from the period when last lime-washed ; and if they have been so painted or varnished, shall be washed with hot water and soap once at least within every fourteen months, to date from the period when last washed.

A factory or workshop in which there is a contravention of this section shall be deemed not to be kept in conformity³ with this Act.

Where it appears to a Secretary of State that in any class of factories or workshops, or parts thereof,

¹ This section, it will be observed, applies to every bakehouse wherever situate ; whereas the two following sections apply only to bakehouses situate in any city, town, or place, containing, according to the last published census for the time being a population of more than 5,000 persons. The date of enforcing the provisions of this and the two following sections as regards retail bakehouses has been transferred from the Factory Inspectors to the local authority. See section 17 of the Factory and Workshop Act, 1883.

² As to the question to what rooms, passages, and staircases, the requirements of this section will apply, see note (2) on section 3.

³ See section 81.

the regulations in this section are not required for the purpose of securing therein the observance of the requirements of this Act as to cleanliness, or are by reason of special circumstances inapplicable, he may, if he thinks fit, by order made under this part of this Act, grant to such class of factories or workshops, or parts thereof, a special exception that the regulations in this section shall not apply thereto.

34. Where a bakehouse is situate in any city, town,¹ or place² containing, according to the last published census for the time being, a population of more than five thousand persons, all the inside walls of the rooms⁴ of such bakehouse, and all the ceilings or tops of such rooms (whether such walls, ceilings, or tops be plastered or not), and all the passages⁴ and staircases⁴ of such bakehouse, shall either be painted with oil or varnished, or be lime-washed, or be partly painted or varnished, and partly lime-washed; where painted with oil or varnished there shall be three coats of paint or varnish, and the paint or varnish shall be renewed once at least in every seven years, and shall be washed with hot water and soap once at least in every six months; where lime-washed, the lime-washing shall be renewed once at least in every six months.

Lime-washing, painting, and washing of the interior of bakehouses.³

A bakehouse in which there is any contravention of this section, shall be deemed not to be kept in conformity⁵ with this Act.

¹ As to the meaning of this word, see *Elliot v. South Devon Railway Company*, 2 Ex. R., 725; *Reg. v. Cottle*, 16 Q. B., 413; *Commissioners of Milton v. Faversham District Highway Board*, 10 B. S., 549.

² See *Smith v. Redding*, L. R. 1, Q. B., 489; *Rice v. Slec*, L. R. 7, C. P., 378.

³ The provisions of this section are reproduced with some slight modifications from section 4 of the Bakehouse Regulation Act, 1863.

⁴ See note (2) on preceding page.

⁵ See section 81.

Provision as to
sleeping places
near bake
houses.¹

35. Where a bakehouse is situate in any city, town, or place containing, according to the last published census for the time being, a population of more than five thousand persons, a place on the same level with the bakehouse, and forming part of the same building, shall not be used as a sleeping place, unless it is constructed as follows ; that is to say,—

Unless it is effectually separated from the bakehouse by a partition extending from the floor to the ceiling ; and

Unless there be an external glazed window of at least nine superficial feet in area, of which at the least four and a half superficial feet are made to open for ventilation.

Any person who lets or occupies, or continues to let or knowingly suffers to be occupied any place contrary to this section shall be liable to a fine² not exceeding, for the first offence, twenty shillings, and for every subsequent offence five pounds.

* * * *

(4.) *Special Exception for Domestic and certain other Factories and Workshops.*

Exception of
domestic
factories and
workshops and
certain
other work-
shops from
certain pro-
visions of the
Act.

61. The provisions of this Act which relate—

(1.) To the cleanliness (including lime-washing, painting, varnishing, and washing) or to the freedom from effluvia, or to the overcrowding, ventilation of a factory or workshop ; or

* * * *

¹ This section is practically the same as section 5 of the Bakehouse Regulation Act, 1863.

² As to the recovery and application of this fine, see section 89.

- (3.) To the affixing of any notice or abstract in a factory or workshop ; or specifying any matter in the notice so affixed ;

* * * * *

Shall not apply—

- (a.) Where persons are employed at home, that is to say, to a private house, room, or place which, though used as a dwelling, is by reason of the work carried on there a factory or workshop within the meaning of this Act, and in which neither steam, water, nor other mechanical power is used, and in which the only persons employed are members of the same family dwelling there ; or
- (b.) To a workshop which is conducted on the system of not employing children or young persons therein, and the occupier of which has served on an Inspector notice of his intention to conduct his workshop on that system.

* * * * *

Where the occupier of a workshop has served on an Inspector notice of his intention to conduct that workshop on the system of not employing children or young persons therein, the workshop shall be deemed for all the purposes of this Act to be conducted on the said system until the occupier changes it, and no change shall be made until the occupier has served on the Inspector notice of his intention to change the system. . . . A change in the said system shall not be made oftener than once a quarter.

Nothing in this section shall exempt a bakehouse from the provisions of this Act with respect to cleanliness (including lime-washing, painting, var-

nishing, and washing) or to the freedom from effluvia.¹

* * * * *

(5.) *Supplemental as to Special Provisions.*

Requirement of sanitary provisions as condition of special exceptions.

63. Where it appears to a Secretary of State that the adoption of any special means or provision for the cleanliness or ventilation of a factory or workshop is required for the protection of the health² of any child, young person, or woman employed, in pursuance of an exception under this part of the Act, either for a longer period than is otherwise allowed by this Act, or at night, he may, by order made under this part of this Act, direct that the adoption of such means or provision shall be a condition of such employment ; and if it appears to a Secretary of State that the adoption of any such means or provision is no longer required, or is, having regard to all the circumstances, inexpedient, he may, by order made under this part of this Act, rescind the order directing such adoption without prejudice to the subsequent making of another order.

Power to rescind order granting or extending exceptions.

64. Where an exception has been granted or extended under this part of this Act by an order of a Secretary of State, and it appears to a Secretary of State that such exception is injurious to the health of the children, young persons, or women

¹ Note that the effect of this section may be to exempt certain bakehouses from the provisions of the Act, which relate to overcrowding, or ventilation, or to the affixing of notices or abstracts of the Act, as to which see section 78.

² In the interests of the public health, there may be cases in which a Medical Officer of Health may consider it to be his duty to make representations to the Inspector of Factories with respect to the adoption of special means or provisions for the cleanliness or ventilation of retail bakehouses for the purpose contemplated in this section.

employed in, or is no longer necessary for the carrying on of the business in, the class of factories or workshops or parts thereof to which the said exception was so granted or extended, he may, by an order made under this part of this Act, rescind the grant or extension, without prejudice to the subsequent making of another order.

65. Where a Secretary of State has power to make an order under this part of this Act, the following provisions shall apply to that order : Provisions as to order of Secretary of State.

- (1.) The order shall be under the hand of the Secretary of State, and shall be published in the *London Gazette*, and shall come into operation at the date of such publication in the *London Gazette*, or at any later date mentioned in the order :
- (2.) The order may be temporary or permanent, conditional or unconditional, and whether extending a prohibition or exception, granting an exception, directing the adoption of any means or provisions, or rescinding a previous order, or effecting any other thing, may do so either wholly or partly :
- (3.) The order shall be laid as soon as may be before both Houses of Parliament, and if either House of Parliament, within the next forty days after the same has been so laid before such House, resolve that such order ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such order or to the making of any new order :
- (4.) The order, while it is in force, shall, so far as is consistent with the tenor thereof, apply as if it formed part of the enactment which

provides for the extension or grant or otherwise for making the order.

Provisions as to occupier availing himself of special exceptions, and registry of work under them.

66. An occupier of a factory or workshop, not less than seven days before he avails himself of any special exception under this part of this Act, shall serve on an Inspector, and (except in the case of a factory or workshop to which the provisions of this Act with respect to the affixing of notices do not apply) affix in his factory or workshop notice of his intention so to avail himself, and whilst he avails himself of the exception shall keep the notice so affixed.

Before the service of such notice on the Inspector the special exception shall not be deemed to apply to the factory or workshop, and after the service of such notice on the Inspector it shall not be competent in any proceeding under this Act for the occupier to prove that such special exception does not apply to his factory or workshop, unless he has previously served on an Inspector notice that he no longer intends to avail himself of such special exception.

The notice so served and affixed shall specify the hours for the beginning and end of the period of employment, and the times to be allowed for meals to every child, young person, and woman where they differ from the ordinary hours or times.

An occupier of a factory or workshop shall enter in the prescribed register, and report to an Inspector, the prescribed particulars respecting the employment of a child, young person, or woman in pursuance of an exception, but such entry and report need not be made in the case of a factory or workshop to which the provisions of this Act with respect to the affixing of notices do not apply, except so far as may be from time to time prescribed by a Secretary of State.

Where the occupier of a factory or workshop avails himself of an exception under this part of this Act, and a condition for availing himself of such exception (whether specified in this part of this Act, or in an order of a Secretary of State made under this part of this Act) is not observed in that factory or workshop, then

- (1.) If such condition relates to the cleanliness, ventilation, or overcrowding of the factory or workshop, the factory or workshop shall be deemed not to be kept in conformity with this Act ; and
- (2.) In any other case a child, young person, or woman employed in the factory or workshop, in alleged pursuance of the said exception, shall be deemed to be employed contrary to the provisions of this Act.

PART III.

ADMINISTRATION, PENALTIES, AND LEGAL PROCEEDINGS.

(1.) *Inspection.*

* * * * *

68. An Inspector under this Act shall, for the purpose of the execution of this Act, have power to do all or any of the following things ;¹ namely,

Powers of
Inspectors.

- (1.) To enter, inspect, and examine at all reasonable times by day and night, a factory and a workshop and every part thereof when he

¹ These powers, as regards retail bakehouses, are now transferred to Medical Officers of Health (see section 17 of the Factory and Workshop Act, 1883), and may not be exercised by any Inspector of Factories, unless he has notice or reasonable cause to believe that any child, young person, or woman is employed in any such bakehouse.

has reasonable cause to believe that any person is employed therein, and to enter by day¹ any place which he has reasonable cause to believe to be a factory or workshop; and

- (2). To take with him, in either case, a constable into a factory² in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty; and
- (3.) To require the production of the registers, certificates, notices, and documents kept in pursuance of this Act, and to inspect, examine, and copy the same; and
- (4.) To make such examination and inquiry as may be necessary to ascertain whether the enactments for the time being in force relating to public health and the enactments of this Act are complied with, so far as respects the factory or workshop and the persons employed therein; and
- (5.) To enter any school in which he has reasonable cause to believe that children employed in a factory or workshop are for the time being educated; and
- (6.) To examine either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in a factory or workshop, or such a school as aforesaid, or whom he has reasonable cause to believe to be or to have been within the preceding two

¹ As the expression "night" is defined by section 96, as meaning the period between nine o'clock in the evening and six o'clock in the succeeding morning, it may, perhaps, be inferred that the expression "day" here means the period between six o'clock in the morning and nine o'clock in the succeeding evening.

² Note that he is not expressly empowered to take a constable into a workshop. As to what bakehouses are factories and what are workshops, see section 93, and page 35.

months employed in a factory or workshop, and to require such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined ; and

- (7.) To exercise such other powers as may be necessary¹ for carrying this Act into effect.

The occupier of every factory and workshop, his agents and servants, shall furnish the means required by an Inspector² as necessary for an entry, inspection, examination, inquiry, or the exercise of his powers under this Act in relation to such factory and workshop.

Every person who wilfully delays an Inspector in the exercise of any power under this section, or who fails to comply with a requisition of an Inspector in pursuance of this section, or to produce any certificate or document which he is required by or in pursuance of this Act to produce, or who conceals or prevents a child, young person, or woman from appearing before or being examined by an Inspector, or attempts so to conceal or prevent a child, young person, or woman, shall be deemed to obstruct an Inspector in the execution of his duties under this Act : Provided always, that no one shall be required under this section to answer any question or to give any evidence tending to criminate himself.

Where an Inspector is obstructed in the execution of his duties under this Act, the person ob-

¹ Quære, whether it is necessary for a Medical Officer of Health to take legal proceedings. See above pages 36 to 38, and note (2) on page 102.

² It will be observed that the Factory and Workshop Act, 1883, has not in express terms rendered this paragraph, and the remainder of the section applicable to Medical Officers of Health for the purpose of enabling them to exercise their powers as regards retail bake-houses. Quære, whether it can be regarded as having, by implication, rendered them applicable. See above, page 39.

structing him shall be liable to a fine not exceeding five pounds; and where an Inspector is so obstructed in a factory or workshop, the occupier of that factory or workshop shall be liable to a fine not exceeding five, or where the offence is committed at night, twenty pounds; and where an Inspector is so obstructed in a factory or workshop within the meaning of section sixteen of this Act, the occupier shall be liable to a fine not exceeding one, or where the offence is committed at night, five pounds.

Restriction on entry of Inspector into dwellings.¹

69. An Inspector before entering, in pursuance of the powers conferred by this Act, without the consent of the occupier, any room or place actually used as a dwelling as well as for a factory or workshop, shall, on an affidavit or statutory declaration of facts and reasons, obtain written authority so to do from a Secretary of State, or such warrant as is herein-after mentioned from a justice of the peace.

The affidavit or statutory declaration above mentioned may be inspected or produced in evidence in all respects the same as an information on oath before a justice.

A justice of the peace, if satisfied by information on oath that there is reasonable cause to suppose that any enactment of this Act is contravened in any such room or place as aforesaid may, in his

¹ The remarks in note (2) on the preceding page apply to this section. As, however, this section restricts the powers of entry possessed by the Inspectors, it seems probable that in the cases to which it applies, a Medical Officer of Health would not have the power of entry until he had obtained a written authority from the Secretary of State, or a warrant from a justice of the peace. On the other hand, it may be contended that the justice of the peace has no power to give any such authority or warrant to a Medical Officer of Health, no express power to give it being conferred by the Act of 1883. See above, pages 39 and 40.

discretion, grant a warrant under his hand, authorizing the Inspector named therein at any time within the period named therein, but not exceeding one month from the date thereof, to enter, in pursuance of this Act, the room or place named in the warrant, and exercise therein the powers of inspection and examination conferred by this Act, and the fines and provisions of this Act with respect to obstruction of an Inspector shall apply accordingly.

70. Every inspector under this Act shall be furnished with the prescribed certificate of his appointment, and on applying for admission to a factory or workshop shall, if required, produce to the occupier the said certificate.¹

Certificates of
appointment
of Inspectors..

Every person who forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or personates the Inspector named in any such certificate, or falsely pretends to be an Inspector under this Act, shall be liable to be imprisoned for a period not exceeding three months, with or without hard labour.

* * * * *

(3.) *Miscellaneous.*

75. Every person shall, within one month after he begins to occupy a factory, serve on an Inspector a written notice containing the name of the factory, the place where it is situate, the address to which he desires his letters to be addressed, the nature of the work, the nature and amount of the moving power therein, and the name of the firm under

Notice of
factory to be
given to
Inspector.

¹ It is difficult to see how this section can be made applicable to a Medical Officer of Health. It may, however, be desirable that he should have some evidence to produce, if necessary, of his appointment.

which the business of the factory is to be carried on, and in default shall be liable to a fine not exceeding five pounds.¹

* * * * *

Registers to be kept in a factory or workshop.

77. The occupier of every factory and workshop to which this section applies, shall keep in the prescribed form and with the prescribed particulars registers of the children and young persons employed in that factory or workshop, and of their employment, and of other matters under this Act.

* * * * *

This section applies to every factory and workshop in which a child or young person under the age of sixteen years is, for the time being, prohibited under this Act from being employed without a certificate of fitness for employment.

Where by reason of the number of children and young persons employed in a factory or workshop to which this section does not for the time being apply, or otherwise, it seems expedient to a Secretary of State so to do, he may order the occupier of that factory or workshop to keep a register under this section, with power to rescind such order, and while such order is in force this section shall apply to that factory or workshop.

In the event of a contravention of this section in a factory or workshop, the occupier of the factory or workshop shall be liable to a fine not exceeding forty shillings.

¹ As this notice is not required to be given to the local authority or the Medical Officer of Health, it may be desirable for them to come to some arrangement with the Factory Inspector, with a view of obtaining information as to the occupation of such retail bakehouses as are factories. The majority of retail bakehouses are, however, likely to be workshops and not factories (see section 93), and the provisions of this section are not applicable to workshops.

Affixing in
factory or
workshop of
abstract of Act
and notices.

- * * * * *

- In the event of a contravention² of this section in a factory or workshop, the occupier of the factory or workshop shall be liable to a fine not exceeding forty shillings.

Printing or
writing and
service of
notices and
documents,
&c.

Any notice, order, requisition, summons, and documents, document required or authorized to be served or &c.

² This section is not included amongst those which are to be enforceable by the local authority (see section 17 (1) of the Factory and Workshop Act, 1883). It is, therefore, presumably, still enforceable as regards retail bakehouses by the Factory Inspectors; but as these officers are prohibited by section 17 (3) of that Act from exercising as regards these establishments the powers of entry and inspection conferred by this Act, unless they have notice or reasonable cause to believe that a child, young person, or woman is employed therein, they will be placed under considerable disadvantage in enforcing the provisions of this section in the case of retail bakehouses. Medical Officers of Health are not required by the Act to give notice to the Inspectors of any infringement of this section; but as it is very desirable that they should act in harmony with the Inspectors, it will probably be well that they should notify any such infringement to the Inspector of the district.

sent for the purposes of this Act may be served and sent by delivering the same to or at the residence of the person on or to whom it is to be served or sent, or, where that person is the occupier of a factory or workshop, by delivering the same or a true copy thereof to his agent or to some person in such factory or workshop ; it may be also served or sent by post as a prepaid letter, and if served or sent by post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to prove that it was properly addressed and put into the post ; and where it is required to be served on or sent to the occupier of a factory or workshop, it shall be deemed to be properly addressed if addressed to the occupier of such factory or workshop at the factory or workshop, with the addition of the proper postal address, but without naming the person who is the occupier.

(4.) *Fines.*

Fine for not keeping factory or workshop in conformity with Act.

81. If a factory or workshop is not kept in conformity with this Act, the occupier thereof shall be liable to a fine¹ not exceeding ten pounds.

The Court of Summary Jurisdiction, in addition to or instead of inflicting such fine, may order certain means to be adopted by the occupier, within the time named in the order, for the purpose of bringing his factory or workshop into conformity with this Act ; the Court may, upon application, enlarge the time so named, but if, after the expiration of the time as originally named or enlarged by subsequent order, the order is not complied with, the occupier

¹ As to the recovery and application of this fine, see section 89.

shall be liable to a fine not exceeding one pound for every day that such non-compliance continues.

* * * * *

85. Every person who forges or counterfeits any certificate for the purposes of this Act (for the forgery or counterfeiting of which no other punishment is provided), or, who gives or signs any such certificate knowing the same to be false in any material particular, or who knowingly utters or makes use of any certificate so forged, counterfeited, or false as aforesaid, or who knowingly utters or makes use of as applying to any person a certificate which does not so apply, or who personates any person named in a certificate, or who wilfully connives at the forging, counterfeiting, giving, signing, uttering, making use, or personating as aforesaid, shall be liable to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding three months with or without hard labour.

Forgery of certificates, false entries and declarations.

Every person who wilfully makes a false entry in any register, notice, certificate, or document required by this Act to be kept or served or sent, or who wilfully makes or signs a false declaration under this Act, or who knowingly makes use of any such false entry or declaration, shall be liable to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding three months with or without hard labour.

86. Where an offence for which the occupier of a factory or workshop is liable under this Act to a fine, has in fact been committed by some agent, servant, workman, or other person, such agent, servant, workman, or other person shall be liable to the same fine as if he were the occupier.

Fine on person committing offence for which occupier is liable.

Power of occupier to exempt himself from fine on conviction of the actual offender.

87. Where the occupier of a factory or workshop is charged with an offence against this Act, he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender, brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier of the factory or workshop proves to the satisfaction of the Court that he had used due diligence to enforce the execution of the Act, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the occupier shall be exempt from any fine.

When it is made to appear to the satisfaction of an Inspector¹ at the time of discovering the offence, that the occupier of the factory or workshop had used all due diligence to enforce the execution of this Act, and also by what person such offence had been committed, and also that it had been committed without the knowledge, consent, or connivance of the occupier and in contravention of his orders, then the Inspector shall proceed against the person whom he believes to be the actual offender in the first instance, without first proceeding against the occupier of the factory or workshop.

Restraint on cumulative fines.

88. A person shall not be liable in respect of a repetition of the same kind of offence from day to day to any larger amount of fines than the highest fine fixed by this Act for the offence, except—

(a.) Where the repetition of the offence occurs

¹ This enactment is not expressly made applicable by the Factory and Workshop Act, 1883, to the local authority, or the Medical Officer of Health, as regards retail bakehouses, but it will, no doubt, be advisable that they should act in conformity with the principles indicated in it.

after an information has been laid for the previous offence.

* * * * *

(5.) *Legal Proceedings.*

89. All offences under this Act shall be prosecuted, and all fines under this Act shall be recovered, on summary conviction before a Court of Summary Jurisdiction in manner provided by the Summary Jurisdiction Acts. Prosecution of offences and recovery and application of fines.

A summary order may be made for the purposes of this Act by a Court of Summary Jurisdiction in manner provided by the Summary Jurisdiction Acts.

All fines imposed in pursuance of this Act shall, save as otherwise expressly provided by this Act, be paid into the Exchequer.

The Court of Summary Jurisdiction, when hearing and determining a case arising under this Act, shall be constituted either of two or more justices of the peace sitting at some court or public place at which justices are for the time being accustomed to assemble for the purpose of holding petty sessions, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the public administration of justice, and for the time being empowered by law to do alone any act authorized to be done by more than one justice of the peace.

Where a proceeding is taken before a Court of Summary Jurisdiction with respect to an offence against this Act alleged to be committed in or with reference to a factory or workshop, the occupier of that factory or workshop, and the father, son, or brother of such occupier, shall not be qualified to act as a member of such Court.

Appeal to
Quarter Ses-
sions.

90. If any person feels aggrieved by a conviction or order made by a Court of Summary Jurisdiction on determining an information or complaint under this Act, he may appeal therefrom ; subject, in England, to the conditions and regulations following :

- (1.) The appeal shall be made to the next practicable Court of General or Quarter Sessions having jurisdiction in the county or place in which the decision of the Court was given, holden not less than twenty-one days after the day on which such decision was given ; and
- (2.) The appellant shall, within ten days after the day on which the decision of the Court was given, serve notice on the other party and on the Clerk of the Court of Summary Jurisdiction of his intention to appeal, and of the general grounds of such appeal ; and
- (3.) The appellant shall, within three days after such notice is served, enter into a recognizance before a Court of Summary Jurisdiction, with or without a surety or sureties as the Court may direct, conditioned to appear at the said sessions and to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the Court, or the appellant may, if the Court of Summary Jurisdiction thinks it expedient, instead of entering into a recognizance give such other security by deposit of money with the Clerk of the Court of Summary Jurisdiction or otherwise as the court deem sufficient ; and
- (4.) Where the appellant is in custody a Court of Summary Jurisdiction may, if they think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody ; and

- (5.) The Court of Appeal may adjourn the hearing of the appeal, and upon the hearing thereof may confirm, reverse, or modify the decision of the Court of Summary Jurisdiction, or remit the matter to the Court of Summary Jurisdiction with the opinion of the Court of Appeal thereon, or make such other order in the matter as the Court thinks just; and
- (6.) The Court of Appeal may also make such order as to costs to be paid by either party as the Court thinks just; and
- (7.) Whenever a decision is reversed by the Court of Appeal, the clerk of the peace shall indorse on the conviction or order appealed against, a memorandum that the same has been quashed, and whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence that the conviction or order has been quashed, in every case where such copy or certificate would be sufficient evidence of such conviction or order; and
- (8.) Every notice in writing required by this section to be given by an appellant may be signed by him or by his agent on his behalf, and may be transmitted in a registered letter by the post in the ordinary way, and shall be deemed to have been served at the time when it would be delivered in the ordinary course of post.

91. The following provisions shall have effect with respect to summary proceedings for offences and fines under this Act:—

- (1.) The information shall be laid within two months, or, where the offence is punishable at discretion by imprisonment, or is a breach

Limitation of time and general provisions as to summary proceedings.

of the provisions of this Act with respect to holidays, within three months after the commission of the offence :

- (2.) The description of an offence in the words of this Act, or in similar words, shall be sufficient in law :
- (3.) Any exception, exemption, proviso, excuse, or qualification, whether it does or not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information, and if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant :
- (4.) It shall be sufficient to allege that a factory or workshop is a factory or workshop within the meaning of this Act, without more :
- (5.) It shall be sufficient to state the name of the ostensible occupier of the factory or workshop or the title of the firm by which the occupier employing persons in the factory or workshop is usually known :
- (6.) A conviction or order made in any matter arising under this Act, either originally or on appeal, shall not be quashed for want of form, and a conviction or order made by a Court of Summary Jurisdiction against which a person is authorized by this Act to appeal shall not be removed by *certiorari* or otherwise, either at the instance of the Crown or of any private person, into a superior court, except for the purpose of the hearing and determination of a special case.

Evidence in
summary pro-
ceedings.

92. If a person is found in a factory, except at meal times, or while all the machinery of the factory is stopped, or for the sole purpose of bringing

food to the persons employed in the factory between the hours of four and five o'clock in the afternoon, such person shall, until the contrary is proved, be deemed for the purposes of this Act to have been then employed¹ in the factory :

Provided that yards, playgrounds, and places open to the public view, schoolrooms, waiting rooms, and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on, shall not be taken to be any part of the factory within the meaning of this enactment ; and this enactment shall not apply to a factory or workshop to which the provisions of this Act with respect to the affixing of notices do not apply.

* * * * *

A copy of a conviction for an offence against this Act purporting to be certified under the hand of the clerk of the peace having the custody of such conviction to be a true copy shall be receivable as evidence, and every such clerk of the peace shall, upon the written request of an Inspector and payment of a fee of one shilling, deliver him a copy of the conviction so certified.

PART IV.

DEFINITIONS, SAVINGS, APPLICATION TO SCOTLAND AND IRELAND, AND REPEAL.

(1.) *Definitions.*

93.

* * * * *

¹ As to what constitutes employment for the purposes of the Act, see also section 94.

The expression "non-textile factory" in this Act means—

* * * * *

Factories and workshops to which Act applies.

- (2.) Any premises or places named in Part II.¹ of the Fourth Schedule to this Act wherein, or within the close² or curtilage or precincts of which, steam, water, or other mechanical power is used in aid of the manufacturing process carried on there ;
- (3.) Also any premises wherein, or within the close or curtilage or precincts of which, any manual labour is exercised by way of trade or for purposes of gain in or incidental to the following purposes, or any of them ; that is to say—
 - (a.) In or incidental to the making of any article or of part of any article ; or
 - (b.) In or incidental to the altering, repairing, ornamenting, or finishing of any article ; or
 - (c.) In or incidental to the adapting for sale of any article ;
 and wherein, or within the close or curtilage or precincts of which, steam, water, or other mechanical power is used in aid of the manufacturing process carried on there.

The expression "factory" in this Act means

¹ Bakehouses are named in Part II. of the Fourth Schedule, and are there defined as being "any places in which baked bread, biscuits, confectionery, from the baking or selling of which a profit is derived."

² "Close" is defined in Wharton's Law Lexicon as being "a field or piece of land parted off from other fields or common land by banks, hedges, &c." According to the same authority "curtilage" means a court-yard, backside, or piece of ground lying near or belonging to a dwelling-house, the limit of premises in which house-breaking can be committed." Probably here the words may be taken as meaning any piece of ground immediately adjoining the premises, and inclosed by the same common fence or wall. The word "precincts" may possibly have a somewhat wider meaning.

textile factory and non-textile factory, or either of such descriptions of factories.

The expression "workshop" in this Act means—

- (1.) Any premises or places named in Part II. of the Fourth Schedule to this Act, which are not a factory within the meaning of this Act ;
- (2.) Also any premises, room, or place not being a factory within the meaning of this Act, in which premises, room, or place or within the close or curtilage or precincts of which premises, any manual labour is exercised by way of trade or for purposes of gain in or incidental to the following purposes or any of them ; that is to say,—
 - (a.) In or incidental to the making of any article or part of any article ; or
 - (b.) In or incidental to the altering, repairing, ornamenting, or finishing of any article ; or
 - (c.) In or incidental to the adapting for sale of any article ;
and to which or over which premises, room, or place the employer of the persons working therein has the right of access or control.

A part of a factory or workshop, may, for the purposes of this Act, be taken to be a separate factory or workshop ; and a place solely used as a dwelling shall not be deemed to form part of the factory or workshop for the purposes of this Act.

Where a place situate within the close, curtilage, or precincts forming a factory or workshop is solely used for some purpose other than the manufacturing process or handicraft carried on in the factory or workshop, such place shall not be deemed to form part of that factory or workshop for the purposes of this Act, but shall, if otherwise it would be a factory or workshop, be deemed to be a separate factory or workshop, and be regulated accordingly.

Any premises or place shall not be excluded from the definition of a factory or workshop by reason only that such premises or place are or is in the open air.

This Act shall not apply to such workshops, other than bakehouses, as are conducted on the system of not employing any child, young person, or woman therein, but save as aforesaid applies to all factories and workshops as before defined, inclusive of factories and workshops belonging to the Crown: Provided that in case of any public emergency a Secretary of State may exempt a factory or workshop belonging to the Crown from this Act to the extent and during the period named by him.

The exercise by any child or young person in any recognized efficient school during a portion of the school hours of any manual labour for the purpose of instructing such child or young person in any art or handicraft, shall not be deemed to be an exercise of manual labour for the purpose of gain within the meaning of this Act.

Definition of
employment
and working
for hire.

94. A child, young person, or woman who works in a factory or workshop, whether for wages or not, either in a manufacturing process or handicraft, or in cleaning any part of the factory or workshop used for any manufacturing process or handicraft, or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to or connected with the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process or handicraft therein, shall, save as is otherwise provided by this Act, be deemed to be employed therein¹ within the meaning of this Act.

¹ This section should be noted by Medical Officers of Health in consequence of the duty imposed on them by section 17 (2) of the

For the purposes of this Act an apprentice shall be deemed to work for hire.

* * * * *

96. In this Act, unless the context otherwise requires,— General definitions.

The expression “child” means a person under “Child.”
the age of fourteen years :

The expression “young person” means a person “Young per-
of the age of fourteen years and under the age son.”
of eighteen years :

The expression “woman” means a woman of “Woman.”
eighteen years of age and upwards :

* * * * *

The expression “Secretary of State” means “Secretary of
one of Her Majesty’s Principal Secretaries of State.”
State :

The expression “Sanitary Authority” means an “Sanitary
Urban or Rural Sanitary Authority within the Authority”
meaning of the Public Health Act, 1875, and (38 & 39 Vict.,
any commissions,¹ board, or vestry in the c. 55).
metropolis having the like powers as such
Urban Sanitary Authority :

The expression “person” includes a body of “Person.”
persons corporate or unincorporate :

* * * * *

The expression “night” means the period be- “Night.”

Factory and Workshop Act, 1883, of giving written notice to the Factory Inspector of the district whenever they became aware of the employment of any child, young person, or woman in any retail bakehouse. See also section 92.

¹ Presumably the Commissioners of Sewers, in the City of London, and the Metropolitan Vestries and District Boards, are meant by these words. These are the local authorities in the Metropolis to whom the duties of the Factory Inspectors, as regards retail bakehouses, have now been transferred. See section 18 of the Factory and Workshop Act, 1883.

- tween nine o'clock in the evening and six o'clock on the succeeding morning :
- "Prescribed." The expression "prescribed" means prescribed for the time being by a Secretary of State :
- "Summary Jurisdiction Acts." The expression "Summary Jurisdiction Acts" means the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales, with respect to summary convictions and orders," and any Acts amending the same :
- "Court of Summary Jurisdiction." The expression "Court of Summary Jurisdiction," means any justice or justices of the peace, metropolitan police magistrate, stipendiary or other magistrate, or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to :

* * * * *

The factories and workshops named in the Fourth Schedule to this Act are in this Act referred to by the names therein assigned to them.

* * * * *

- Application to factories and workshops of 38 & 39 Vict. c. 55.
101. The provisions of section ninety-one of the Public Health Act, 1875, with respect to a factory, workshop, or workplace not kept in a cleanly state or not ventilated or overcrowded, shall not apply to a factory or workshop which is subject to the provisions of this Act relating to cleanliness, ventilation, and overcrowding, but shall apply to every other factory, workshop, and workplace.¹

¹ With respect to this enactment it will be observed, on reference to sections 3 and 33, and the notes to those sections (pages 62 and 64),

It is hereby declared that the Public Health Act, 1875, shall apply to buildings in which persons are employed, whatever their number may be, in like manner as it applies to buildings where more than twenty are employed.¹

102. Any enactment or document referring to the Acts repealed by this Act, or any of them, or to any enactment thereof, shall be construed to refer to this Act, and to the corresponding enactment thereof.²

Construction of enactments, &c., referring to repealed Acts.

that bakehouses are subject to the provisions of this Act relating to cleanliness, ventilation, and overcrowding, and that consequently the provisions of section 91 of the Public Health Act, 1875, as amended by this Act (as to which see section 107 and the Sixth Schedule), will not apply to them. The cases, however, in which a bakehouse could have been dealt with under section 91 (6) and the other provisions of the Public Health Act, 1875, relating to nuisances, can be dealt with under sections 3, 81, and 89 of this Act. (See above, page 47.)

¹ The definition of "house" in section 4 of the Public Health Act, 1875, includes "schools, also factories or other buildings in which more than twenty persons are employed at one time." The effect of the present section, and also of section 107 and the Sixth Schedule to this Act, seems, therefore, to be that the above definition now includes, besides schools, "factories or other buildings in which persons are employed." This will, apparently, bring bakehouses within the provisions of the Public Health Act, 1875, relating to "houses," e.g., within sections 23 to 25, 35 to 38, 62, &c. (See above, pages 47 and 48.)

² Among the enactments repealed by this Act is the Bakehouse Regulation Act, 1863, which was one of the "Sanitary Acts" as defined in section 4 of the Public Health Act, 1875. It would, therefore, appear that the enactments in the present Act corresponding to those in the Bakehouse Regulation Act, 1863, come within the definition of "Sanitary Acts" for the purposes of the Public Health Act, 1875. Sections 3, 34 and 35 of the present Act certainly correspond with enactments of the Bakehouse Regulation Act, 1863. Quære, whether the same remark does not apply to the other provisions of this Act and of the Factory and Workshop Act, 1883, so far as they relate to bakehouses. See section 18 of the latter Act, which provides that it shall be construed as one with this Act. As to the effect of this section in connexion with the taking of legal proceedings by Sanitary Authorities, and the payment of the expenses of local authorities under this Act and the Act of 1883, see above, pages 36 to 38 and 43 to 45.

Application of
Act to Scot-
land.

105. In the application of this Act to Scotland—

* * * * *

30 & 31 Vict.,
c. 101.

(3) The expression "Sanitary Authority" means the local authority under the Public Health (Scotland) Act, 1867 :

(4) The expression "Medical Officer of Health" means the medical officer under the Public Health (Scotland) Act, 1867, or where no such officer has been appointed, the medical officer appointed by the parochial board :

* * * * *

27 & 28 Vict.,
c. 53.

(6.) The expression "Summary Jurisdiction Acts" means the Summary Procedure Act, 1864, and any Acts amending the same :

(7.) The expression "Court of Summary Jurisdiction" means the sheriff of the county or any of his substitutes :

* * * * *

(9.) The expression "County Court" means the sheriff court :

(10.) All matters required by this Act to be published in the *London Gazette* shall (if they relate exclusively to Scotland), instead of being published in the *London Gazette* be published in the *Edinburgh Gazette* only :

(11.) The expression "information" means petition or complaint :

(12.) The expression "informant" means petitioner, pursuer, or complainer :

(13.) The expression "defendant" means defender or respondent :

(14.) The expression "clerk of the peace" means sheriff clerk :

(15.) All offences under this Act shall be prosecuted, and all penalties under this Act shall

be recovered under the provisions of the Summary Jurisdiction Acts at the instance of the procurator fiscal, or of an Inspector¹ under this Act :

- (16.) The Court may make, and may also from time to time alter or vary, summary orders under this Act on petition by such procurator fiscal or Inspector presented in common form :
- (17.) All fines under this Act in default of payment, and all orders made under this Act failing compliance, may be enforced by imprisonment for a term to be specified in the order or conviction, but not exceeding three months :
- (18.) It shall be no objection to the competency of an Inspector to give evidence as a witness in any prosecution for offences under this Act, that such prosecution is brought at the instance of such Inspector :
- (19.) Every person convicted of an offence under this Act shall be liable in the reasonable costs and charges of such conviction :
- (20.) All penalties imposed and recovered under this Act shall be paid to the Clerk of the Court, and by him accounted for and paid to the Queen's and Lord Treasurer's Remembrancer, on behalf of Her Majesty's Exchequer, and shall be carried to the Consolidated Fund :
- (21.) All jurisdictions, powers, and authorities necessary for the purposes of this section are conferred on the sheriffs and their substitutes :

¹ So far as retail bakehouses are concerned, the Medical Officer of the Local Authority will apparently be substituted for the Inspector for the purposes of this sub-section. See section 17 (1) of the Factory and Workshop Act, 1883.

- (22.) Any person may appeal from any order or conviction under this Act to the Court of Justiciary, under and in terms of the Act of the twentieth year of the reign of His Majesty King George the Second, chapter forty-three, or under any enactment amending that Act, or applying or incorporating its provisions, or any of them, with regard to appeals, or to the Court of Justiciary at Edinburgh under and in terms of the Summary Prosecutions Appeal (Scotland) Act, 1875.

38 & 39 Vict.,
c. 62.

Application of
Act to Ireland.

106. In the application of this Act to Ireland—

* * * * *

- (3.) The expression "Sanitary Authority" means an Urban or Rural Sanitary Authority within the meaning of the Public Health (Ireland) Act, 1874, and any Act amending the same :
- (4.) The expression "Medical Officer of Health" means the medical sanitary officer of the sanitary district :

* * * * *

- (6.) The expression "County Court" means the Civil Bill Court :
- (7.) The expression "Summary Jurisdiction Acts" means, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and any Act amending the same :
- (8.) A Court of Summary Jurisdiction when hearing and determining an information or complaint in any matter arising under this

37 & 38 Vict.,
c. 93.

14 & 15 Vict.,
c. 93.

Act shall be constituted within the police district of Dublin metropolis of one of the divisional justices of that district sitting at a police court within the district, and elsewhere of a stipendiary magistrate sitting alone, or with others, or of two or more justices of the peace sitting in petty sessions at a place appointed for holding petty sessions :

- (9.) Appeals from a Court of Summary Jurisdiction lie in the manner and subject to the conditions and regulations prescribed in the twenty-fourth section of the Petty Sessions 14 & 15 Vict., (Ireland) Act, 1851, and any Acts amending c. 93. the same :
- (10.) All fines imposed under this Act shall, save as is otherwise expressly provided by this Act, be applied in the manner directed by the Fines Act (Ireland), 1851, and any 14 & 15 Vict., Act amending the same : c. 90.
- (11.) The provisions of section nineteen of the 29 & 30 Vict., Public Health Act, 1866, or of any enactment c. 90. substituted for that section, with respect to any factory, workshop, or workplace, not kept in a cleanly state, or not ventilated, or overcrowded, shall not apply to any factory or workshop which is subject to the provisions of this Act with respect to cleanliness, ventilation, and overcrowding, but shall apply to every other factory, workshop, and workplace.¹

It is hereby declared that the Sanitary Acts within the meaning of the Public Health 37 & 38 Vict., (Ireland) Act, 1874, shall apply to buildings c. 93. in which persons are employed, whatever their number may be, in like manner as they

¹ See the notes to section 101.

apply to buildings where more than twenty persons are employed.¹

- (12.) All matters required by this Act to be published in the *London Gazette* shall, if they relate exclusively to Ireland, instead of being published in the *London Gazette*, be published in the *Dublin Gazette* only.

(4.) *Repeal.*

Repeal of
Acts.

107. The Acts specified in the Sixth Schedule to this Act are hereby repealed, from and after the commencement of this Act, to the extent in the third column of that Schedule mentioned.

Provided that—

* * * * *

- (8.) This repeal shall not affect—

* * * * *

- (b.) Any obligation or liability incurred under any enactment hereby repealed :

* * * * *

¹ See the notes to section 101.

SCHEDULES.

* * * * *

FOURTH SCHEDULE.

List of Factories and Workshops.

PART II.

*Non-Textile Factories and Workshops.*Sections 93,
96.

* * * * *

(22.) "Bakehouses," that is to say, any places in Bakehouses. which are baked bread, biscuits or confectionery, from the baking or selling of which a profit is derived:¹

¹ This is practically the same definition of "bakehouse" as that contained in the Bakehouse Regulation Act, 1863. It cannot be regarded as altogether satisfactory. Does it include (1) the whole of any premises on any part of which the making or baking of bread, biscuits, or confectionery is carried on; or (2) merely the rooms in which there are ovens; or (3) not only these rooms, but also rooms in which the bread, biscuits, or confectionery are prepared, or the materials for making them and the implements used in the manufacture are kept, and the passages and staircases leading to such rooms? In strictness, the only place in which bread, biscuits or confectionery can be baked is the oven; but it is evident from the wording of the Act, which contains regulations as to the rooms, staircases and passages of the bakehouse (see section 34), and also from the Act of 1883, which speaks of the employment of persons in retail bakehouses, that the word "bakehouse" must have a wider meaning than this. In his evidence before the Royal Commission on the working of the Factory and Workshop Acts, Mr. Alexander Redgrave, C.B., now Her Majesty's Chief Inspector of Factories and Workshops, is reported to have said, on the 16th of April, 1875 (when the Bakehouse Regulation Act, 1863, was still in force), "We administer the Factory Act, or the Workshop Act, in those parts of a bakehouse in which the bread is not baked—having an opinion to that effect some time ago. This is the opinion of either (*sic*) the Secretary of State or the Attorney and Solicitor-General on that point—'Notwithstanding anything in the Acts, the Bakehouse Act only applies to those parts of the premises where the bread, biscuits, or confectionery are made and baked; the other parts of a bakehouse are under inspection.' Consequently, to take the premises of Messrs. Peek, Frean and Company, for instance, where 300 or 400 persons may be employed, the greater portion of them are under the Factory Act and a small portion under the Bakehouse Act, that small portion being the part where the ovens are situated and where persons are employed in baking bread." See also above, pages 24 and 25.

Section 107.

SIXTH SCHEDULE.

Acts Repealed.

Session and Chapter.	Title of Act.	Extent of Repeal.
* *	* *	* *
26 & 27 Vict., c. 40	The Bakehouse Regulation Act, 1863	The whole Act.
* *	* *	* *
29 & 30 Vict., c. 90	The Sanitary Act, 1866	The following words (so far as unrepealed) in section nineteen, “not already under the operation of any general Act for the regulation of fac- tories or bake- houses.” ¹
* *	* *	* *
38 & 39 Vict., c. 55	The Public Health Act, 1875	The following words in section ² four, “more than twenty,” and the words “at one time,” and the following words in section ninety-one, ³ “not already under the operation of any general Act for the regulation of fac- tories or bake- houses.”
* *	* *	* *

¹ The effect of the repeal of these words has been important, so far as the local authorities of the metropolis are concerned; for it has enabled them to take the same proceedings under the Nuisances

FACTORY AND WORKSHOP ACT, 1883,

46 & 47 VICT., c. 53.

*An Act to amend the Law relating to certain Factories
and Workshops. [25th August, 1883.]*

1. This Act may be cited as the Factory and Short title.
Workshop Act, 1883.

* * * * *

*Bakehouses.*¹

15. It shall not be lawful to let or suffer to be Regulations
occupied as a bakehouse, or to occupy as a bake- for new bake-
houses.

Removal Acts, as they are enabled to take in the case of other nuisances, within the meaning of those Acts, in respect of factories and workshops, including bakehouses, "not kept in a cleanly state or not ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust, or other impurities generated in the course of the work carried on therein that are a nuisance or injurious or dangerous to health, or so overcrowded while work is carried on therein as to be dangerous or prejudicial to the health of those employed therein." In fact, in respect of factories and workshops coming within this description, the local authorities in the metropolis, who have the power of dealing with nuisances under the Nuisances Removal Acts, have possessed very similar powers to those which the Factory Inspectors have had by the operation of the second and third paragraphs of section 3 of this Act. This is, apparently, the result of an oversight on the part of the framers of the Act, for the effect of the express provisions contained in section 101 of this Act has been to prevent the local authorities outside the metropolis from exercising this dual jurisdiction as regards bakehouses, and other factories and workshops, which are subject to the provisions of this Act relating to cleanliness, ventilation, and overcrowding. See above, pages 46 and 47.

² See note (2) to section 101.

³ See section 101.

¹ As to the question what is a bakehouse, see pages 24 and 25, sections 93 and 96, and Part Two of the Fourth Schedule to the Factory and Workshop Act, 1878; and note (1) on page 97.

house, any room or place which was not so let or occupied before the first day of June, one thousand eight hundred and eighty-three, unless the following regulations are complied with :

- (i.) No watercloset, earthcloset, privy, or ashpit shall be within or communicate directly with the bakehouse ;
- (ii.) Any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern for supplying water to a water-closet ;
- (iii.) No drain or pipe for carrying off fæcal or sewage matter shall have an opening within the bakehouse.¹

Any person who lets or suffers to be occupied, or who occupies any room or place as a bakehouse in contravention of this section, shall be liable, on summary conviction, to a fine² not exceeding forty shillings, and a further fine not exceeding five shillings for every day during which any room or place is so occupied after a conviction³ under this section.

Penalty for
bakehouse
being unfit,
on sanitary
grounds, for
use as a
bakehouse.

16. Where a Court of Summary Jurisdiction is satisfied on the prosecution of an Inspector or a local authority that any room or place used as a bakehouse (whether the same was or was not so

¹ As has been already pointed out in note (1) on page 91, the provisions of the Public Health Act, 1875, relating to houses, apply to bakehouses. Proceedings may, therefore, apparently be taken by Urban and Rural Sanitary Authorities under that Act to enforce the drainage of untrained bakehouses, and the provision of sufficient waterclosets, earthclosets, privies, and ashpits, and a proper water supply, for bakehouses let or occupied as such both before and after the 1st of June, 1883. See above, page 48.

² As to the recovery and application of this fine, see section 89 of the Factory and Workshop Act, 1878.

³ As to what will be receivable as evidence of a conviction, see section 92 of the Act of 1878.

used before the passing of this Act) is in such a state as to be on, sanitary¹ grounds, unfit for use or occupation as a bakehouse, the occupier of the bakehouse shall be liable, on summary conviction, to a fine not exceeding forty shillings, and on a second or any subsequent conviction, not exceeding five pounds.

The Court of Summary Jurisdiction, in addition to or instead of inflicting such fine, may order means to be adopted by the occupier, within the time named in the order, for the purpose of removing the ground of complaint. The court, may, upon application, enlarge the time so named, but if, after the expiration of the time as originally named or enlarged by subsequent order, the order is not complied with, the occupier shall be liable to a fine not exceeding one pound for every day that such non-compliance continues.²

17. (1.) As respects every retail bakehouse,³ the provisions of this part of this Act, and of sections three, thirty-three, thirty-four, and thirty-five of the Factory and Workshop Act, 1878 (which relate to cleanliness, ventilation, overcrowding, and other sanitary conditions), shall be enforced⁴ by the local authority of the district in which the retail bakehouse is situate, and not by an Inspector under the

Enforcement
of law as
to retail
bakehouses
by local
authorities.

¹ From the wording of this and the preceding section, it may, perhaps, be inferred that the framers of the Act did not consider that any room or place would necessarily be in such a state as to be, on sanitary grounds, unfit for use or occupation as a bakehouse, merely because the regulations of section 15 were not complied with. On this point, see above, pages 31 and 32.

² This paragraph is very similar to the second paragraph of section 81 of the Factory and Workshop Act, 1878.

³ For the definition of "retail bakehouse," see the following section.

⁴ With respect to the expenses incurred by the local authority in enforcing these provisions, see above, pages 43 to 45.

Factory and Workshop Act, 1878; and for the purposes of this section the Medical Officer of Health of the local authority shall have and exercise all such powers¹ of entry, inspection, taking² legal proceedings and otherwise, as an Inspector under the Factory and Workshop Act, 1878.

(2.) If any child,³ young person, or woman is employed⁴ in any retail bakehouse, and the Medical Officer of the local authority becomes aware thereof, he shall forthwith give written notice thereof to the Factory Inspector for the district.

¹ As to these powers, see pages 33 to 39, and sections 68 and 69 of the Factory and Workshop Act, 1878. Some of them will be found to be unnecessary for the purposes of enforcing the sanitary regulation of retail bakehouses.

² These words seem to indicate that the legal proceedings necessary for enforcing the sanitary regulation of retail bakehouses may be taken by the Medical Officer of Health in the same manner that prosecutions are instituted by the Factory Inspectors for enforcing the provisions of the Factory Acts. It will, however, be observed that the earlier part of the section provides for the enforcement of the provisions of this part of the Act, and of sections 3, 33, 34 and 35 of the Act of 1878, by the local authority; and in the preceding section it is assumed that the prosecution will be instituted by the local authority. The most probable construction of the two sections would, therefore, seem to be that the Medical Officer of Health may take the necessary legal proceedings for enforcing this Act and the Act of 1883, on behalf of the local authority. Having regard to section 259 of the Public Health Act, 1875, which enables any Sanitary Authority to appear before any court, or in any legal proceedings by their Clerk, or by *any officer or member authorized generally, or in respect of any special proceeding by resolution of such authority*, it would probably be well if any Urban or Rural Sanitary Authority desire proceedings to be taken under these Acts by their Medical Officer of Health, that they should pass a resolution accordingly, authorizing him to take such proceedings either generally or in special cases. On this point, see also above, pages 36 to 38.

³ For the definitions of "child," "young person," and "woman," see section 96 of the Factory and Workshop Act, 1878.

⁴ As to what constitutes employment within the meaning of the Act, see sections 92 and 94 of the Act of 1878. Note, that it is the duty of the Medical Officer of Health to give notice of the employment of the child, young person, or woman, whether or not such employment is in contravention of the Act.

(3.) An Inspector under the Factory and Workshop Act, 1878, shall not, as respects any retail bakehouse, exercise the powers of entry and inspection conferred by that Act, unless he has notice or reasonable cause to believe that a child, young person, or woman is employed therein.

18. This Act shall be construed as one with the Factory and Workshop Act, 1878; and in this Act, unless the context otherwise requires,—

Construction of Act and definitions.

* * * * *

The expression “retail bakehouse”¹ means any bakehouse or place, the bread, biscuits, or confectionery baked in which are not sold wholesale, but by retail in some shop or place occupied together with such bakehouse :

The expression “local authority” means, as respects the City of London and the liberties thereof, the Commissioners of Sewers; as respects the parishes and districts mentioned in the Schedules A. and B. annexed to the Metropolis Management Act, 1855, and any parish to which the said Act may be extended by Order in Council in manner in the said Act provided, the vestries and district Boards elected under the said Act; and as respects any urban sanitary district, the Urban Sanitary Authority; and as respects any rural sanitary district, the Rural Sanitary Authority, within the meaning of the Public Health Act, 1875.

18 & 19 Vict.,
c. 120.

Application of Act to Scotland and Ireland.

19. In the application of this Act to Scotland

Application of Act to Scotland.
30 & 31 Vict.,
c. 101.

¹ See note (1) on page 97.

the expression "local authority" means the local authority within the meaning of the Public Health (Scotland) Act, 1867.

Application
of Act to
Ireland.

41 & 42 Vict.,
c. 52.

20. In the application of this Act to Ireland, the expression "local authority" means, as regards any urban sanitary district, the Urban Sanitary Authority, and as regards any rural sanitary district, the Rural Sanitary Authority, within the meaning of the Public Health (Ireland) Act, 1878.



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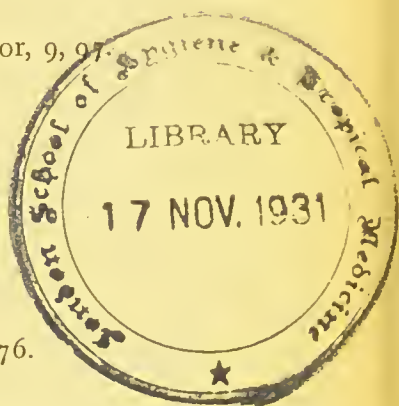
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